HAZARDOUS WASTE CONTAMINATION OF WATER RESOURCES
(Superfund Clean-up Policy and the Seymour Recycling Case)

(98-77)

HEARINGS

BEFORE THE

SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT

OF THE

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
HOUSE OF REPRESENTATIVES

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HAZARDOUS WASTE CONTAMINATION OF WATER RESOURCES (SUPERFUND CLEAN-UP POLICY AND THE SEYMOUR RECYCLING CASE)

TUESDAY, OCTOBER 18, 1983

House of Representatives,
Subcommittee on Investigations and Oversight,
Committee on Public Works and Transportation,
Washington, DC.

The subcommittee met, pursuant to notice, at 11:07 a.m., in room 2167, Rayburn House Office Building, Hon. Elliott H. Levitas (chairman of the subcommittee) presiding.

Mr. Levitas. The subcommittee will please come to order.

This morning the Subcommittee on Investigations and Oversight of the Committee on Public Works and Transportation continues with its examination of hazardous waste contamination of our Nation's water resources, and the effectiveness of existing Federal and other law in addressing this widespread problem.

For approximately 2 years now, this subcommittee has been reviewing the overall administration of the several Federal statutes that regulate activities associated with the handling and disposal of toxic chemical wastes, and the cleanup of abandoned hazardous waste sites that we now know number in the thousands.

Today we start yet another phase of our inquiry, as we begin what will probably be several days of hearings to examine the problems at the Seymour Recycling Corp. waste site in Seymour, IN, and the Federal and State government agency efforts to clean up that abandoned hazardous waste site.

By examining this case, we look to learn why this site, a site that is larger than Love Canal or the Valley of the Drums, was allowed to come into being; why Indiana regulatory officials were unable to prevent the problems at this site from occurring; why it took 2½ years from the filing of the Federal lawsuit in this case before the cleanup of the site began; how and why the lawsuit was settled; and how the cleanup is being implemented.

In the weeks to come, I know that we will be hearing in considerable detail about many of the factors that have had a bearing on this case, and about the changes, both administrative and statutory, that may be necessary to ensure that we are doing all that is required to protect the public's health and the Nation's water resources from the effects of toxic chemical wastes.

However, today, as a way of beginning this review, the subcommittee looks to examine a slightly broader issue, an issue that appears to have had a significant effect on what has taken place in the *Seymour Recycling* case. The EPA's policies, practices and procedures for negotiating and settling with those responsible for the creation of sites like Seymour Recycling.

During past hearings, we have heard testimony indicating that the EPA's policies for enforcing the Superfund law were oriented toward "negotiating first, and litigating second," and to preserving the moneys in the Superfund through what was euphemistically described as "prudent fund management." There have been suggestions that EPA's policy encouraged or permitted sweetheart deal" settlements even in cases like Seymour.

Past testimony, and other information available to the subcommittee also indicates that there has been some confusion as to how settlements should be handled: Whether they should be court sanctioned, or simply administrative agreements.

Questions have also been raised about the obvious absence of any use of the law's more punitive sanctions against responsible parties, most notably, the provision for seeking treble damages.

In short, the EPA's policies and practices in this area are anything but clear.

Last week, the EPA announced a proposal to change its Superfund negotiation and settlement policies. We look to hear from our witnesses today, who are from the EPA, about these changes and about the policies that were in effect at the time of the *Seymour* settlement. And we look to gain an understanding as to why these proposed changes are deemed necessary and what they hope to achieve by them.

In the weeks ahead, we also expect to be calling on numerous witnesses that have been involved in the *Seymour Recycling* case: representatives of the State of Indiana's State Board of Health and the Indiana Attorney General's Office; the Department of Justice; and other officials from the U.S. Environmental Protection Agency, both past and present; officials and citizens of the community of Seymour, IN; and representatives of the various companies involved in the *Seymour Recycling* case as "responsible parties," both those that have settled with the Government and some of those that have not.

Finally, I expect that we may well be calling on those who actually operated and owned the Seymour Recycling Corp., and the company charged with the surface cleanup at that site, Chemical Waste Management.

Before we begin the testimonial portion of our hearing today, I would like to inquire whether my friend and colleague, Congressman Molinari from New York, has a statement.

Mr. MOLINARI. I do not have a statement.

Mr. Chairman, I just would like to make the comment that I think the selection of the Seymour site is a good selection for this subcommittee, because it involves some of the very complex issues that the Government faces when they are attempting to deal with a cleanup. Seymour is a good example where you have involved hundreds and hundreds of generators, the transporters, the owners and operators and public officials with all the difficulties in effectuating a settlement.

I think if we look back at what transpired during the negotiations in the Seymour matter, and at the same time look at the new policy statement that has been recently announced by EPA I think we will have a pretty fair idea as to sensible attitudes for the future in dealing with multiparty settlements, and how to approach them.

So I look forward to the hearing today. I think it is going to provide for us, for the first time, an insight into the new attitudes of EPA in dealing with a dump such as Seymour.

Thank you, Mr. Chairman.

Mr. LEVITAS. Thank you, Mr. Molinari.

Dr. Rowland, I understand you do not have an opening statement.

Mr. ROWLAND. No; I do not.

Mr. LEVITAS. Under the circumstances then, I will now recognize at the witness table Mr. Gene A. Lucero, Director, Office of Waste Programs Enforcement; Mr. Richard H. Mays, Senior Enforcement Counsel, both with the U.S. Environmental Protection Agency, and ask that you raise your right hands.

Do you solemnly swear that the testimony that you will give before the subcommittee today will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LUCERO. I do.

Mr. MAYS. I do.

Mr. LEVITAS. Thank you very much, gentlemen.

We once again welcome you to the subcommittee. I would first inquire if either of you have an opening statement you would care to make.

TESTIMONY OF GENE A. LUCERO, DIRECTOR, OFFICE OF WASTE PROGRAMS ENFORCEMENT; ACCOMPANIED BY RICHARD H. MAYS, SENIOR ENFORCEMENT COUNSEL, OFFICE OF ENFORCEMENT AND COMPLIANCE MONITORING, U.S. ENVIRONMENTAL PROTECTION AGENCY

Mr. LUCERO. I do not.

Mr. MAYS. No; we do not.

Mr. LEVITAS. Under the circumstances then, Mr. Mays, would you, for the record, simply identify yourself, and after that, Mr. Lucero, if you would do likewise.

Mr. MAYS. I am Richard H. Mays. I am Senior Enforcement Counsel at the U.S. Environmental Protection Agency.

Mr. LUCERO. I am Gene A. Lucero. I am Director of the Office of Waste Programs Enforcement at EPA.

Mr. LEVITAS. If both of you would sort of bring those microphones a little bit closer, it might be helpful.

Perhaps as a way to begin, it would be helpful is you would, first of all, outline for us what the EPA, the new EPA negotiating policy and settlement policy is, as it was announced last week; and without objection, I will make as part of the record a document entitled Outline of Proposed Settlement Policy for Hazardous Waste Enforcement Cases, and if you would begin, either of you, Mr. Lucero, or Mr. Mays, to describe what this new policy is, and then, without getting into too much of a structured dialog, explain in what particulars that this new policy differs from the policy that had existed during the first 2 years of the Superfund Program.

[The following was received for the record.]

OUTLINE OF PROPOSED SETTLEMENT POLICY FOR HAZARDOUS WASTE ENFORCEMENT CASES

BACKGROUND

By statute, the parties potentially responsible for cleanup or the costs of cleanup at a Superfund site include the owners and operators of the site, and the generators and transporters of the hazardous substances which require cleanup. At some sites, the total number of potentially responsible parties (PRPs) has exceeded 350.

Before cleanup work is performed at a Superfund site, enforcement personnel attempt to induce potentially responsible parties to do the planned cleanup. If that fails, normally the Fund will be used to finance the cleanup, and a cost recovery case will be initiated. In some cases, administrative orders or litigation may be used to compel cleanup.

Because of the large number of PRPs, the complexities of the factual and legal issues, and the potentially long and expensive litigation, PRP's are frequently interested in attempting to settle their liabilities.

Superfund does not contain sufficient resources to cleanup all hazardous waste sites. Furthermore, some sites are in states that cannot cost share. Therefore, some sites will have to be addressed through voluntary or compelled private party response actions.

In this context, the question often arises as to whether the government will accept less than 100% of the cleanup or costs of cleanup from fewer than all of the responsible parties.

In the past, the agency has tried different approaches. At one point, the agency indicated it would only settle for 100%. At another point, the agency agreed to consider "fair share" settlements, i.e., the PRP's could settle their liabilities for a percentage of the total cost, calculated on their volumetric share of the waste delivered to the site.

SUMMARY OF POLICY

The Agency's goal for hazardous waste cases continues to be to collect 100% of the costs of cleanup at waste sites or to achieve complete cleanup by the responsible parties.

However, at a site where potentially responsible parties offer to settle, the adequacy of a settlement offer for less than 100% will be assessed against the following criteria:

1. Volume of Wastes Contributed: How much of the wastes at the site did the settling parties contribute?
2. Nature of Wastes Contributed: Are there any disproportionate effects on the environment or the cleanup caused by the nature of the wastes (e.g. extremely toxic waste) contributed by the settling parties which would warrant a larger percentage.
3. Strength of Evidence Linking Wastes at Site to the Settling Parties: The stronger of evidence the government has against the responsible parties the less likely it is that the government should settle for less than 100%.
4. Financial Ability of Settling Parties: Is the settlement offer good or bad in light of the settling parties' financial abilities?
5. Litigative Risks in Proceeding to Trial: What are the risks to the government if it proceeds to trial? Are defenses under section 107(b) of CERCLA (Superfund law) available? Are there problems with admissibility or adequacy of the evidence? Is the government associated with the site?
6. Public Interest Considerations: Will accepting the settlement offer speed up cleanup efforts or the quality of a clean up?
7. Litigative Strengths: Would acceptance of the settlement offer deprive the government of a good opportunity to obtain important rulings on issues of law under the statute?
8. Nature of the Case that Remains after Settlement: Are there other financially viable responsible parties remaining for the government to proceed for the balance of the cleanup? Does the government weaken the remaining case by settling now with a portion of the responsible parties?

9. Value of Obtaining Settlement Now: Does the dollar amount being offered now have a higher net present value than what the government might expect to obtain after successful litigation?

10. Inequities and Aggravating Factors: Although equitable matters are not defenses to the strict liability of the "Superfund" law, are there any inequities or aggravating factors which should be considered in assessing the adequacy of the offer?

In cases which, by application of the above criteria, the government appears to have a favorable advantage in the case, the government intends not to consider offers which are less than 80% of the costs of cleanup (or to do less than 80% of the cleanup work), absent special circumstances. This is in order to conserve resources and limit the time spent in negotiations which are likely to be unfruitful.

Q's and A's on the proposed EPA Hazardous Waste Settlement Policy:

1.(Q) What is the goal of the government in negotiating with responsible parties for cleanup or costs of cleanup?

(A) The goal of government is to collect 100% of the costs of cleanup or a 100% cleanup of a site from responsible parties.

2.(Q) When will the government use this settlement policy?

(A) This settlement policy will be used at sites where more than one potentially responsible party is involved, but less than all of them are willing to clean up the site or pay for its cleanup. When a responsible party makes a settlement offer for less than 100% of the cleanup, or cost of cleanup, the government must decide if it is willing to accept less than 100% from fewer than all of the potentially responsible parties. It is in these instances that the policy will be used to guide the government as it assesses these offers.

3.(Q) Why does the government need a settlement policy for hazardous waste cases?

(A) The settlement policy gives EPA a uniform national approach to settling hazardous waste cases, creating more consistent results in EPA settlements. This policy will remove much of the confusion that now exists both inside and outside EPA about the proper approach to take on settlement negotiations. In order to achieve cleanup at hazardous waste sites, the government will have to litigate, or prepare to litigate, the liability of potentially responsible parties at many of these sites. Given the finite resources available to support such litigation and the public interest in achieving cleanup of these sites in the most expeditious fashion, it will probably be necessary to settle the government's case at many of these sites. Some of these settlements may extend only to part of the site, or part of the total liability of a site. This policy is intended to guide the analysis of any settlement offers that do not address total cleanup of a site or 100% of the cost of such cleanup.

4.(Q) What is the settlement policy?

(A) When the responsible parties come forward with an offer that is less than 100% of cleanup or the cost of cleanup, the offer will be analyzed against the following criteria:

(1) Volume of waste contributed at a site by the settling responsible parties.
(2) Nature of the wastes contributed by the settling responsible parties.
(3) Strength of evidence tracing the wastes at the site to the settling parties.
(4) Ability of the settling parties to pay.
(5) Litigative risks in proceeding to trial.
(a) Admissibility of the government's evidence.
(b) Adequacy of the government's evidence.
(c) Government association with the site.
(d) Availability of defenses to the settling parties.
(6) Public interest considerations.
(7) Litigative strengths.
(8) Nature of the case that remains after settlement, including whether there are other financially viable parties left to proceed against for the balance of the cleanup after settlement.
(9) The value of obtaining a sum certain now.
(10) Inequities and aggravating factors.

4a.(Q) How will these criteria be prioritized or weighted?

(A) All criteria will be evaluated. Some may not be applicable in certain cases. The government is developing detailed guidance for considering these criteria in individual circumstances.

5.(Q) What is the 80% threshold figure and what effect does it have on settlement negotiations?

(A) The 80% threshold figure means that the settling parties must come forward with an offer that is 80% of the costs of cleanup or 80% of the actual cleanup before the government will consider accepting a settlement offer. Once this threshold has been met by the settling parties, the ten other settlement criteria previously mentioned will be applied to the settlement offer to determine if it is in the government's best interest to pursue settlement negotiations. This percentage threshold ensures that a substantial amount is recovered by government in a settlement. Additionally, it acts as a screen to ensure that government's limited resources are not expended negotiating on offers that do not address a substantial portion of the cleanup.

6.(Q) If a responsible party comes forth with a settlement offer that is less than 80% of cleanup or costs, will it automatically be rejected?

(A) Generally, an offer to settle for less than 80% of cleanup or costs will be rejected. The 80% threshold establishes the point at which the government will consider further negotiations with responsible parties. However, there are extraordinary circumstances in which it would be wise for the government to consider a settlement offer that is less than 80%. Such an offer must be assessed against the ten settlement criteria contained in the policy to determine whether it is an appropriate settlement with specific parties at a particular site. In any case in which it is believed to be necessary, considering all circumstances of the case, to accept less than 80% of the costs of cleanup, a detailed justification for acceptance of the lower figure must be prepared by the government negotiating team.

6a.(Q) What are these extraordinary circumstances?

(A) Because each case represents different fact patterns, it is not possible to define all circumstances where consideration by the government of a less than 80% offer would be appropriate. However, the government has received settlement offers of less than 80% in circumstances where one or more major waste contributors have been bankrupt and where responsibility for waste shipments has been distributed equally among relatively few responsible parties.

7.(Q) Does a settlement offer for an amount greater than 80% of costs or cleanup guarantee acceptance by the government?

(A) No. First of all, the 80% threshold figure is the point at which the government will consider negotiating a settlement with responsible parties. It is a beginning point, not an ending point. Secondly, there are many circumstances in which EPA will not accept a settlement even if it is higher than the 80% threshold figure. In many cases, only 100% of the work or cost of the work will be an appropriate settlement.

8.(Q) Who will pay the remaining balance of cleanup costs not covered in the settlement?

(A) Generally, before EPA accepts a settlement of less than 100% of the cleanup or costs from some of the responsible parties, there must be other responsible parties not a part of the settlement offer from which EPA feels confident it can ultimately collect the remaining costs of cleanup through enforcement processes.

9.(Q) How will this settlement policy affect cleanup at a site?

(A) The settlement policy is being developed to help expedite payment of the cleanup by responsible parties. It is not intended to delay the actual cleanup of a site or the quality of the cleanup. However, in certain circumstances, the government has coordinated private party cleanup actions with Superfund cleanup actions to effect a full cleanup.

10.(Q) 80% of what?

(A) As a starting place, EPA will use the cost estimates from the feasibility study done at the site. Added to this cost estimate will be an inflation factor and a cost overrun estimate. The threshold for the government to enter settlement negotiations will be based on 80% of this figure.

Mr. MAYS. Thank you, Mr. Chairman.

First off, I think I speak for both Mr. Lucero and I, when I say that we appreciate the opportunity to be here before the committee to explain our proposed hazardous waste settlement policy.

We had briefed the staff last week, on both sides of the Hill. I did not expect to be back so soon, but I am delighted that you are interested in what we are doing.

This is part of the Administrator's new policy to—in significant policies, to get the attitudes and opinions of those who are most interested in this type of thing, including you gentlemen, and environmental groups, trade groups, as well as our EPA personnel, so we are delighted to be here and get your views on this.

Mr. **Molinari**. Mr. Mays, would you suffer an interruption?

Mr. **Mays**. Certainly.

Mr. **Molinari**. I want to be sure that what we are introducing into the record, with your consent, Mr. Chairman, is in fact the final product that was adopted by EPA.

What I have here is a cover sheet that simply states outline of proposed settlement policy for hazardous waste enforcement cases. On the first page, we have the background on the top and summary of policy, toward the bottom of the page, then the eight criteria, on page 2, then Q and A's, not identified and you have another page 2 thereafter.

Mr. **Mays**. You are missing a page 3, I believe, Mr. Molinari.

The answer to your question is that this is not the final policy. This is an outline of the policy that we propose to put out. The reason that it is not a draft of the policy that we are sending out to the regions, hopefully next week, for comment, is that—well, a number of things.

Mr. Brown, our Enforcement Counsel, had basically been writing, or shepherding this project, left the Agency to enter private practice about a week and a half ago, and we, as a result of that, have had—let our scheduling for briefings kind of get ahead of our getting the draft policy out. We will have it out, I hope, next week, and we will certainly furnish a copy of that to you.

The principles and the high points that you have in the outline are essentially, if not identical to those which will be in the policy, it is just a matter of putting it in the proper format for the regions to review.

Mr. **Molinari**. So if I understand correctly, this is step 1 in the process. Step 2 would be a draft statement that would be disseminated to the 10 regional offices for input, and then step 3 would be the final adopted policy, which would be the official policy of EPA.

Mr. **Mays**. That is correct. We are proposing to put these principles in the form of a memorandum from Courtney Price, who is the Assistant Administrator-designate for Enforcement and Compliance Monitoring; and Mr. Lee Thomas, the Assistant Administrator for Solid Waste and Emergency Response, to send to the regional offices for 30-day comment.

Actually, you are getting an advance look at this. The regional offices have not even seen it yet.

Mr. **Molinari**. Fine; I appreciate that explanation. I think it helps us to focus in on what we are dealing with today.

Mr. **Mays**. I would be happy to give you a copy of the outline——

Mr. **Molinari**. Page 3?

Mr. **Mays**. That has page 3 in it.

Mr. **Molinari**. I appreciate that.

Mr. **Levitas**. That is the one that we will put in the record, then.

Mr. **Mays**. You have our apologies for not having that included.

Mr. **Levitas**. Before you get back to your answer, let me make sure that I am clear on one other thing that came out in your last statement.

The reorganization of the internal structure of EPA, which the Administrator communicated to us some weeks ago, indicated a separation between the Office of Enforcement and the General

Counsel, which had been merged together by Mrs. Gorsuch, when her tenure began.

Has this already been accomplished, and have these two functions now been separated?

Mr. **Mays**. It has been accomplished, in practice, if not at least through, if all the organizational details have not been completed in terms of the paperwork, and so forth. The offices are in fact separate at this time.

Mr. **Levitas**. I think it is a step in the right direction.

You may proceed.

Mr. **Mays**. Mr. Lucero and I will endeavor to explain our policy, our proposed policy, to you.

Mr. Lucero will discuss the history of the policy, and how it was developed, and then I will briefly go through some of the highlights of it, and then we will be pleased to entertain any questions that the panel, or the subcommittee, may have.

Mr. **Lucero**. Since I understand you may wish to ask questions about the background, or the prior policies of the Agency, I will just give the shortened view of this so that you can explore that in more depth, as you wish.

The Agency has had a number of policies, some of which have been reflected in writing, some of which have developed ad hoc since the beginning of the Hazardous Waste Task Force, in approximately 1979.

I have only historical information, personally, since I was not involved with the Hazardous Waste Program until April 1982. However, as I understand it, the policy that was in effect at that time, when I arrived, was based on the understanding and the position of the Agency that joint and several liability has been mandated by the Superfund law. The Agency's position was that the only reasonable approach to take was essentially 100-percent settlement.

That policy was difficult to implement, since it basically allows little room for negotiation. In the summer of 1982, in the context of the——

Mr. **Levitas**. Excuse me, Mr. Lucero. Let me interrupt you there. Because I think it would be helpful, certainly for the record, and actually helpful to me, if you were to explain what you mean by 100-percent settlement.

Does that mean that the overall settlement will produce 100 percent of the projected or estimated cost of cleanup, or does it include other items, beyond simply the cleanup, such as damages, or reimbursement to property owners or individuals?

And, second, when you are dealing with less than all of the potential responsibile parties, obviously if you are dealing with less than all, the question is, what is 100 percent at that point? Does that mean the group that you are dealing with will pay the 100 percent, or would they pay some other fraction?

So if you could, expand for my benefit, what you mean by the objective was 100-percent cost to cover.

Mr. **Lucero**. You sort of illuminated for me a problem that I have, and perhaps Mr. Mays does, which is that we bounce back and forth using shorthand, and that is a good point.

Let me try to explain. Depending on the objective of the negotiation at the time, and the negotiation could have been a phased approach, it could have been for the remedial investigation, and the feasibility studies, the investigatory part of a cleanup, it could have been for immediate removal actions, it could have been for surface problems, but in some rare instances, it could have been for the entire cleanup, and so to answer your question, it depended on the site, and what the objective was at that site.

When we said 100 percent, it was 100 percent of the objective, whatever the objective may have been, and it would include within that, in many instances, the administrative costs of the Agency, and of the Government, in prosecuting that case, or bringing the action to date. It could include other incidental costs associated with the action.

Depending on the objective, it could include some additional costs. In some sites there were inflation factors that were built in, and some factors that were over—excuse me, some cases there were overrun factors built in, and again we have to take it almost on a site specific, to be able to give you an answer to your question.

In any event, the Agency's experience with the settlement policy was difficult. There was a great deal of confusion on the outside, as to where the Agency would adopt some adjustments, and in the context of the *Chem-Dyne* case, it was—a decision was made collectively between the Agency, both the legal counsel and the technical side of the Enforcement Program, as well as the Department of Justice.

That proposal, which was based on the fair share notion, would be entertained, and as it turned out, one was proposed, and became acceptable to the Agency, and was accepted.

The principles that are set forth in the policy that we have talked last week, and that we will talk to you about today, to some extent are extensions, or reiterations of some of the basic principles that were available at that time.

There are a set of 10 criteria, some of these criteria, if you have had a chance to look over the documents, are the types of considerations that attorneys and persons concerned with an enforcement action would look at to assess the value, the merits of their case. These are factors, for example, and I will pick just one, since I am going to allow Mr. Mays to perhaps highlight them in more detail, but one, for example, the nature of the case that remains after settlement. No. 8.

Relating that back to what I just said about Chem-Dyne, a major concern in that case was whether or not there would be an adequate group of responsible parties to sue for the remainder of the cleanup, and by adequate, we meant not just numbers, but whether we had a good case against them, and their financial capability, and the answer in that case was yes; and therefore, this factor was very important.

In any event, what we did because of the concern, both inside the Agency, particularly in the regions, for lack of guidance about how the Agency makes its decisions, is to put together a task group from the Department of Justice, from the Office of Enforcement Counsel, and from my office, to come up with an agreement about these basic principles, their articulation, what they ought to be, and what they represented. That set of proposals has been worked up through the Agency, and has now become the basis of this policy.

As Mr. Mays said, we are in a position now to get this out to the regions for comment. We took the opportunity last week to give those groups that are designated oversight committees, as well as other concerned Members of Congress, to give the trade groups and the environmental groups an opportunity to point out any problems with this policy.

I might note that on the basis of those discussions, we have made two adjustments. I would mention that both of them came up in the briefing we gave to the House staff, and I will give them credit for that.

The first is that it is clear that our policy did not make a distinction as to whether or not a negotiation could proceed for a phase of the cleanup, for the remedial investigation or feasibility study, or more importantly, for the surface cleanup, as compared to the total cleanup. As we mentioned in several of the briefings, we anticipate that this should happen, since in many cases until the surface is cleaned up, we cannot ascertain the extent of the ground water problem. You cannot do enough sampling and monitoring.

The other problem that was pointed out, and only pointed out on the briefing of the House staff, was that we had not really focused in on the question of treble damages, and where we are pressing the claim for treble damages under section 106, how we would deal with a potential settlement offer against that claim.

This policy is not intended to deal with that, and what Mr. Mays and I have agreed is that we ought to put a clear warning that this should not be used for that. What is more appropriate is some of the concepts that have been adopted in penalty policies that the Agency has adopted ~~in~~ other programs, and I think we will need to go back and look at those, but that will be out of sync with our schedule on this.

We do not think that the principles are a radical departure from the way we conducted business, at least since I have been involved there. There have been principles that have been involved, in large part, in all of our negotiation discussions, some have been more important in certain cases than others.

What we do think is a significant departure, first of all, is that we have written down how we are going to approach these problems for the purposes of notice to the parties who will be negotiating with, as well as our oversight committees, about how we will do business, so that we can be assessed.

The only other change that we have made, and this is basically a management decision, is for the large multiple party generator cases, those were the numbers—are above 10 responsible parties. But we are really thinking in the neighborhood of a number of our cases which have responsible parties numbering between 100 to 350 parties. It is a very unwieldy group to negotiate with.

Since experience in the past has led us into discussions for settlements, for something—when I said 100 percent, there would be proposals for, say 40 percent, or 50 percent, and the Agency would dedicate its resources to at least talking to the people, see if they could up the amount, to see if they could agree on terms.

We have made a decision on this policy, that for those types of cases that the Agency will establish an operational threshold. I use that term because the idea is that we do not wish to entertain offers in this area, unless the starting—the opening bids, so to speak, is high enough. Otherwise, we would just give notice up front, absent exceptional circumstances, that if you do not meet that threshold, the Agency is not going to dedicate its resources to ongoing discussions.

That threshold, after some discussion within the Agency, has been set at 80 percent. That would be 80 percent of the total cost of cleanup with these additional factors, if it is a cost to settle—excuse me, if it is an offer to settle for money, or alternatively, it could be 80 percent of the total work required to do the cleanup at the site.

And the way the threshold would work is to get the Agency's attention, to get a commitment to ongoing negotiations. They would have to at least be discussing matters in that ballpark.

The decision as to what should be accepted would still be made against the original—or I should say the 10 criteria that are listed here. A mere offer in that area is not guarantee of acceptance by the Agency.

Those are the basic changes, and perhaps Mr. Mays would like to highlight some of the factors.

Mr. Mays. Thank you.

Mr. Levitas. Before you begin, Mr. Mays, I have got one more question on the percentage figure, and I know Congressman Molinari has also.

I am still not clear about one thing, and let me take a simple example. Let us take a site with 10 potential responsible parties, and the estimated cost of the cleanup is $1 million. Five of the parties indicate an interest in settling the case, five parties do not.

In negotiating with those five parties, what would be the 80-percent threshold amount that you would want to hear from them before you began your—devoting your resources?

Mr. Lucero. To help clarify, they could make a presentation, or they could present an offer, is a better way to say it, in one of two ways. They could say we are prepared to clean up a certain amount of the site. The offer would have to be—if this can be physically done, realizing these limitations—for 80 percent of the work necessary.

Alternatively, the offer might be to present the Agency with a sum of money to settle their liabilities. To get the Agency's attention, we would have to be talking in the neighborhood of 80 percent of the total cleanup figure, or approximately 800,000, to get out attention.

Mr. Levitas. And therefore, the other 200,000, the Agency—under the hypothetical example I gave, would be looking to the other five potential responsible parties for the balance of that?

Mr. Lucero. If that were the final agreement, yes, sir. Although the way the threshold works is that that may not be what we would agree. You have to look to other factors, like whether those are your best financially capable parties.

Mr. Levitas. Which might up the amount. I understand that. I am just trying to get a concept clarified.

Now, one other technical question. Does the settling party have any rights of subrogation for contribution against the nonsettling parties?

Mr. Mays. It is my opinion under Superfund expressly provides that the responsible parties have rights of contribution I think would be the appropriate word, against other parties. And it would be my judgment that they would have that right.

Mr. Levitas. Thank you.

Mr. Molinari.

Mr. Molinari. I am just a wee bit confused.

If you turn to the first page of the Q and A's, the first question proposed on that page is: "What is the goal of the Government in negotiating with responsible parties for clean up or costs of clean up?"

Answer: "The goal of Government is to collect 100 percent of the costs of clean up or a 100-percent clean up of a site from responsible parties."

I have read that several times and I am a little confused. I am wondering whether there is not an inference in here that the Government would accept under certain circumstances less than 100-percent cleanup?

Mr. Mays. If I may be permitted to go through very briefly, you have a list of the criteria there by which we will measure these offers and then try to put into perspective the goal of 100 percent with the threshold figure that Mr. Lucero has mentioned. I think perhaps it will be a little clearer.

With regard to the criteria that we have established in this policy, I think those of you who are attorneys and those of you who have had dealings with the law, even though you may not be attorneys, recognize that for the most part the criteria that we have established are criteria that may be used to evaluate settlement offers or the value of any type of lawsuit, either in government, either hazardous waste or in the private sector.

The Agency has been in the hazardous waste enforcement business at least on a very active basis since approximately 1978–79 when we started filing cases under section 7003 of RCRA. And we have filed a large number of cases, we have entered into a substantial number of settlement agreements and we have had the benefit of being able to look back and try to find some common threads which run through all of these cases.

In essence, these are the same that run through most cases.

In order to evaluate a case you have to know for example how much evidence do you have to prove the contentions that you are asserting against the other parties? What is the strength of your evidence?

With regard to hazardous waste cases, that relates to a number of factors such as how much waste did the party put in the site who we are claiming is responsible.

Not only how much, but what type of waste? Is that type of waste that they put—that the party put in the site more difficult to clean up? Is it more costly to dispose of or to incinerate?

Is it better to leave it there?

All of those things enter into the cost of cleanup and therefore the value of settlements.

Obviously, the financial condition of the potentially responsible parties whom we are suing has a great deal to do with it.

So as you look through these 10 criteria that we have established, you see that with some exceptions that are directly related to the hazardous waste field most of them are applicable to any kind of a case.

Now, as Mr. Lucero mentioned, our policy has been and remains as a goal to achieve 100 percent of the costs of the cleanup of these sites or to have the potential responsible parties perform 100 percent of the work. Now, I think from a practical, realistic standpoint, we have to recognize that it may not be entirely possible in every case to achieve that goal, although we are certainly going to strive for it. Therefore, in evaluating the cases, we have established this list of criteria which I think most of our attorneys and the Department of Justice attorneys have throughout the last few years really recognized as controlling on sort of the basis that they knew this as lawyers.

One of the values of this is that we put these down in writing so that everybody will know what our criteria are and be playing by the same rules.

They also know that our goal is 100 percent.

The policy goes further and says that by the application of the criteria that we have set out, applying that to the facts of the case, if after that review we feel that we have a reasonably or a substantially reasonable opportunity or a chance of getting from the court what we hope to get—in other words, if we feel that we have a reasonably good chance of succeeding in a lawsuit, then the potentially responsible parties ought to come forward with a settlement proposal of no less than 80 percent of the cost of work or the cost of our doing the work before we will even talk to them.

I think Mr. Prolman in our meeting last week referred to this as, in poker terms as jacks or better to open-type situation. Mr. Prolman is obviously more familiar with poker terms than I, but I understand that jacks or better, do not entitle you to win, necessarily, it just entitles you to play the game. I think that is a good analogy and it is basically what we are saying to our regions, that as a management tool, because our resources are limited and because we want to make the best use of them, that we should not spend significant amounts of time talking with or negotiating with potential responsible parties if we have a reasonably good case, when those parties do not come forward more than an 80-percent offer.

Now in the final analysis, the value of the case will be determined by evaluating it against this criteria. But assuming it is a reasonably good case, then we feel that we ought to get at least an 80-percent offer and negotiate up from that.

Mr. MOLINARI. In getting back to my question, I think that you have answered it. But for the record, I want to be sure that we clear up any confusion.

What you are saying is that the goal of the Government is to collect 100 percent of the cost of the cleanup or to have somebody else effectuate 100-percent cleanup.

Mr. MAYS. That is correct.

Mr. MOLINARI. I just have one question, since you mentioned the criteria.

I have looked at them and I think they make sense but I would like you to look at No. 2: Nature of wastes contributed. I think whoever drafted this makes a good point:

"Are there any disproportionate effects on the environment or the cleanup caused by the nature of the wastes, for example, extremely toxic waste, contributed by the settling parties which would warrant a larger percentage?"

Now, that is self-explanatory and it indicates that if somebody has contributed a smaller percentage of the total that is dumped there, but in fact it is more hazardous, they are going to be asked to pay a higher share.

Looking at it from the opposite extreme, however, suppose somebody finds themselves where they have contributed say 10 percent of the total waste to the site but the hazardous quality is much less, then would the converse be true? Would EPA then accept less than that percentage?

Mr. MAYS. Well, I think the volume of the waste is simply one guideline and I certainly think that if a party contributed 10 percent of the waste but that the proportional part or the proportional cost of removing that waste was less than 10 percent, that would be a factor that we would take into consideration in determining it.

Mr. MOLINARI. There could be larger or smaller percentage.

Mr. MAYS. Yes; I do not want to get too explicit because it would depend on the facts of each case but I would say that there is room for that interpretation in the policy, yes.

Mr. MOLINARI. OK. Thank you.

Mr. LEVITAS. Thank you, Mr. Molinari.

I am going to try to move around the panel if I may.

Dr. Rowland.

Mr. ROWLAND. Thank you very much, Mr. Chairman.

One of the things the subcommittee is concerned about is that the current set of Federal laws that Superfund, RCRA, Hazardous Waste Materials Transportation Act, and so forth may not really encourage companies to properly dispose of their hazardous waste. Laws tend to make things, by definition, hazardous, more things probably, and to make it more costly to dispose of these things. And to some extent it seems that all we have done is to encourage wrong things. We have increased the incentive to find a quick and a cheap or a quick and dirty way to get rid of costly waste products, unless companies are made to realize that it will cost them more in the long run to pay for the cost of cleaning up hazardous waste sites than to dispose of these wastes properly in the first place.

Now, for example we have heard in prior testimony that in Time Beach, MO, it will ultimately cost far more than the $33 million to buy homes in that area. But if the waste that had created the problem had been properly disposed of in the first place it would have maybe just cost a few thousand dollars.

Now, unless corporate officials are convinced that the cost of illegal or improper disposal are far greater than doing it right in the first place, we are probably not going to do much to alleviate this problem that the Superfund Program was enacted to address. Yet I do not see anything in this proposed policy that speaks to the issue of punitive sanctions or the treble-damages provisions. Yet, the entire proposal seems oriented toward a fair share.

I am not so sure that the fairness is appropriate in all of these cases.

Would either of you care to comment on this particular aspect or concern?

Mr. LUCERO. Congressman Rowland, I would—perhaps I mentioned this when you were out of the room. We realized as a result of the briefings that we gave, particularly of the briefing that we gave to the House staff that was invited last week, that this particular document is not really appropriate to deal with the punitive or treble-damages aspect of the Superfund law and before we send out the draft guidance, we intend to put a warning in there that it should not be used that way. These figures and these criteria are not necessarily the only ones that should be used in that situation.

Mr. ROWLAND. So this not being the final action that will be taken, you will look further toward addressing that?

Mr. LUCERO. Yes, sir.

Mr. ROWLAND. OK.

Mr. MAYS. Congressman Rowland, I would agree that fair share is not the philosophy, sole philosophy upon which our settlement should be based. I think the criteria addressed that by including a number of other factors other than volume entry contribution to the site.

There are a lot of shortcomings and inequities in a fair share, or using strictly fair share and we agree with that. And hopefully we have managed to address that in the policy. If we need to be more explicit in your opinion, I think we certainly would take that into consideration.

Mr. ROWLAND. The thing that concerns us is that companies need to realize that it will cost less to do the job right in the first place because under the long run it will cost much, much more. That is a concern.

Thank you, Mr. Chairman.

Mr. LEVITAS. Thank you.

I note the presence of the distinguished ranking member of the full committee, Congressman Snyder.

Mr. SNYDER. I have no questions.

Mr. LEVITAS. Mr. Andrews?

Mr. ANDREWS. Thank you, Mr. Chairman.

I would like to ask both of you just to comment in general about the joint and several liability issue, and assume hypothetically, suppose the EPA simply wanted to have one company clean up a multigenerator site and decided that the appropriate enforcement strategy would be to use, through administrative order, and go after one company and then force that company to deal with all the other companies that were alleged polluters, that way the Government only has to talk to one company about cleaning up the site.

Is not this a viable way, if the company you pick was responsible for say 30 or 40 percent of the waste, is it really necessary to have 80 percent involved?

Mr. MAYS. Well, my observation about that is that that could be done and last—well, this week we received an opinion in the Chem-

Dyne, it was last week, we received an opinion in the *Chem-Dyne* case which held that the standard of liability under CERCLA was joint and several, which I think would fortify our position in taking that approach. Notwithstanding then, of course, there are fairness issues which although not legal defenses, courts may be cognizant of and I would think that in most cases if we were to—if we had a number of viable defendants who could afford to perform the work and who could perhaps work together to do that, we might be in a better position or might have better chances of success in doing that.

Where you have one party who contributed an overwhelming proportion of the waste at a site, certainly a situation in which your example might be applicable.

Mr. ANDREWS. For instance, there is a waste site in my district which is known as the Geneva site, it is probably one of the worst sites in the State of Texas and there are several companies that allegedly had done the polluting. But there is one company in particular that is sort of the point defendant. And it just seems to me that from a prosecutorial standpoint it would be much easier just to go after that one company really hard and put the burden on them to turn the other alleged—some who are guilty, some who are not so guilty.

Mr. LUCERO. Congressman Andrews, you are right in that, in that factual situation or one like it, because I cannot say from my own knowledge what we are doing there. But in factual situations like that, that is our approach, for just that reason.

Mr. ANDREWS. Mr. Mays, would you mind submitting to the subcommittee a copy of the *Chem-Dyne* opinion, if you have a copy.

Mr. MAYS. I would be delighted to.

Mr. ANDREWS. Mr. Chairman, I just got the memo this morning or just saw the memo this morning, prepared by the staff, which is an excellent memorandum. And with the subcommittee's permission, the chairman's permission, I would like an opportunity to reflect on it. I have not had a chance to read it and maybe submit further questions to Mr. Mays and Mr. Lucero.

Mr. LEVITAS. Without objection, we will hold the record open and you can have further time this morning to reflect on it because I have further questions.

Mr. ANDREWS. Thank you.

Mr. LEVITAS. Let me ask a couple of specific questions about your policy and then I want to relate it to your prior practice, using Seymour.

What took place there or has taken place there up to this point as an example of comparison? And really, we will get to the ultimate question which is: Would the Seymour settlement have met the criteria that are before us today?

But one question: When you are entertaining settlements, is it, under your policy—is it your policy to take all comers or do you only deal with those you choose to deal with? Is it an open door or is it sort of admission by invitation only?

Mr. LUCERO. Mr. Chairman, a better way to answer that is to give you a quick description of how we approach a site and maybe that will answer the question.

The way the Agency tries to proceed now is that toward the conclusion of the remedial investigation and feasibility study phase, approximately 6 months or so before that phase is completed, the Agency will send notice letters to all those responsible parties that its investigations have identified, announcing the apparent connection to the site, the possible liability, what is going on, what the plans are for the site, and usually making it clear that if anybody wishes to come forward and talk to the Agency, we will hold a meeting for the purposes of background information and to allow the parties to introduce themselves to one another. At that point, we basically turn it over to the interested parties to organize themselves and to determine the way they approach the Agency.

That pattern is the normal pattern and the way it works is, in the large cases at least, is that they will organize into a negotiating committee with a chairperson and that committee will then make approaches to the attorneys for the purposes of setting up negotiating sessions.

On occasion, depending upon other factors, individual parties through their attorneys will make approaches to parties and at least—excuse me, to attorneys in the agency or in the Justice Department. And depending on the situation, we will entertain some of them if they come forward under certain conditions.

Mr. LEVITAS. Is it not true that in—I think it was the *Seymour* case, it might have been *Chem-Dyne*, but in some instances there have been parties that wanted to participate in a settlement arrangement but were not permitted to do so, or sort of left out? Sort of as a holdover?

Mr. LUCERO. The organization of a group that approaches the Agency is left to the parties that organize themselves. There have been—there has been that incident in the *Seymour* case that the parties organize themselves into a group to propose an offer and they set their own threshold for participation, which was the need to ante a $100,000 minimum to participate.

Mr. LEVITAS. In the case of surface versus subsurface cleanup, do these new policies address that aspect of it or is there still the potential for dividing the surface and subsurface cleanup into two settlement packages?

Mr. LUCERO. There is the potential to do that, as I mentioned in my earlier comments. In some cases it makes good sense to do so, because it is impossible in many instances to determine what the subsurface cleanup needs are until the surface has been cleaned. However, the situation that the policy does not explicitly speak to but that we have been operating under is that we would not give releases for a surface cleanup that would release parties for liability or their subsurface or the subsurface cleanup. It is not explicitly set out in this package or in the documents but it has been an operational principle for some time.

Mr. LEVITAS. Would not it be well to take that, as long as you are going to set these principles down, that would be a critical principle.

Mr. LUCERO. Right, and when I mentioned earlier that we needed to deal with the surface or subsurface ground water phases, that is part of what we were going to mention.

Mr. LEVITAS. I think it is important. Because based on some of the documents that we were finally able to obtain from EPA, after the experiences of last year and earlier this year, I noted a rather strong position within the staff of EPA enforcement people and lawyers who felt very strongly about not permitting a divisible settlement, so that you do not let people off from what is potentially the greatest cost involved, namely the water contamination itself.

Now, I want to be sure that that is going to be addressed in the settlement policy so that the people in the regions are not in doubt in considering settlement, they are not going to let people off the hook from what is potentially the largest cost of all.

Mr. LUCERO. I do not see any problem with communicating that to the regions. That has been our operational policy for some time.

Mr. LEVITAS. One of the criteria is identified as public interest considerations, No. 6, and it says, the explanation underneath that says: "Will accepting the settlement offer speed up cleanup efforts or the quality of a cleanup"?

Could you explain how accepting a settlement or not accepting a settlement would effect either the time or the quality of the cleanup?

Mr. LUCERO. Let me make—give a couple of examples and these are not the entire range, at least the one that is on the front of my mind is a real case.

Imagine a situation does occur. We had a party at a large site which was subsequently listed on the national priority list, come forward and offer to do a fairly extensive amount of work. When the party—when we assessed the case, we determined the materials that the responsible party was responsible for were excluded as hazardous substances and that the Agency really had no enforcement case to bring at all. Since the party was willing to clean up the site and they wanted to settle with the Agency, we thought it was a good idea, so we did so. That is a fairly extreme example of the concept there.

The other kind of considerations are as you may be aware, the Superfund Program is now having to prioritize the work that it can initiate and it is not able to move out as—at all of the sites at once. On occasion there may be some proposals on the table that would allow us to deal with the cleanup.

An example of a particular kind of problem would be for one reason or another, the State has determined that it does not have and cannot produce the costs of its share and which, as you know, would either be 10 percent or perhaps 50 percent in certain instances. The litigation potential may not be terribly good or it may be potentially long. The public interest in that situation may indicate that it is worthwhile looking at a settlement to move forward with cleanup.

Mr. LEVITAS. That is a good introduction to my next question. That is precisely where I was going next.

How does what you are proposing differ from what took place at a hypothetical site S someplace, where the State could not come up with its matching portion in order to involve Superfund. And everybody knew that the Government could not do anything about the site under the Superfund provisions because of that fact, unless there was a settlement.

Now, what are you going to do in other cases where the State cannot come up with a matching share and in light of what you just said, does not that simply say to the potential responsible parties if we are operating in a State where they do not have or are unwilling to put up their share, that we know you are going to have to look at Criteria 6 and come up with a settlement because you pretty much are ruled out from dealing with Superfund. Is not that one of the real problems that Congress needs to focus on as we reauthorize the site?

Mr. LUCERO. First of all, to put that hypothetical—and it actually sounds like a real example, but to put it as a hypothetical and in perspective, that would be one of the considerations. And again, as Mr. Mays and I have tried to emphasize, we would want either the regional enforcement people or if it is involving us and headquarters enforcement people as well, to look across all of these to make some determination.

The fact is though to answer your question—let me stop a second.

It is very important that we look across this and that we would not rush to a settlement for that reason alone. If there were other reasons that made it a good proposal, then we would assess it and that is the idea of this policy.

But coming back to your broader question of whether this is a problem, the answer to your question is yes, it is a problem. There are some States that have difficulty, particularly in these financial times, for the States to come up with the kind of money that might be necessary to meet their share requirements.

Mr. LEVITAS. The proposal or this new policy that you are considering, as I pointed out, does not address the question, although you are contending to—about the other possibilities, subsurface or potentially some other liabilities.

Would you recommend, Mr. Lucero and Mr. Mays, a settlement that would release a group of potential responsible parties from further liability, any further liability for settling a portion of the problem, say the ground clean up, or surface clean up? Or let me put it another way, in the context of the new policy.

Would this new policy prohibit or prevent a settlement with a group of potential responsible parties for a surface clean up that would then release them from further liability at the site?

Mr. MAYS. Well, I think as I understand the question, what you are saying, would we release a party for a phase of the work that was not—that he was not actually paying for or doing? The answer to that I think would have to be couched in some general terms because the settlement of any case is the result of negotiations, usually over a long period of time in which various things are bargained for and gained, bargained for and given away. And I would think that as a general rule unless there was strong overwhelming reason to do that, that our policy, which as Mr. Lucero has said, we have been following for probably 6 months or so or more, has been to not release the parties for anything other than what they actually pay for or do. If they only clean up the surface, then they get a release for surface clean up only and we reserve our rights for any further work.

Mr. LEVITAS. Should not that be spelled out? Because you see what I want to make certain that Seymour—a Seymour settlement of that sort could not happen.

Mr. MAYS. Yes.

Mr. LEVITAS. And if you do not spell that out, then the potential of another Seymour settlement being out there, at least being looked at with amorous eyes by the potential settling parties, still exists. And I think it is very important to lay this to rest that you are not going to let them.

Mr. MAYS. I agree, Mr. Chairman. I have made a note here to include that in the policy draft that was sent out, that that given extraordinary—absent extraordinary circumstances that should be our policy. I think that that will be agreed upon by Ms. Price and Mr. Thomas.

Mr. LEVITAS. Well, I am very pleased to hear that. I have further questions. There is a vote in process on the House floor. Why do not we recess for 10 minutes and get back here. I know we have a number of other questions on the internal policy.

The subcommittee will stand in recess for 10 to 15 minutes.

[Recess.]

Mr. LEVITAS. The subcommittee will please come to order.

Before I go on to the next point—and I want to express my appreciation for the last response, Mr. Mays. It is my understanding that the Agency will now consider, in going forward with these guidelines on settlements, making it clear to the regions, and to the others, that except in the most extraordinary cases, where there are overwhelming circumstances, requiring something other than that, that the policy will not be to let potential responsible parties off from further liability, say for ground water cleanup, as part of a settlement.

Mr. MAYS. That is correct, Mr. Chairman.

We are—actually, this is guidance, and we—I personally oppose locking ourselves into a concrete position on any issue, that is why we issue this in the form of guidance. There are always circumstances in a particular case where some deviation from that may be required, but I agree that as a policy matter, that the position that you have stated should be the one that we apply.

I might also point out, Mr. Chairman, that any settlement that is entered into, in the regional offices, must be thoroughly reviewed and approved by Mr. Thomas, as Assistant Administrator for Solid Waste, and by Ms. Price, as Assistant Administrator for Enforcement, prior to being referred to the Department of Justice for filing.

So there are checks and balances to be assured that the guidance is being followed by the regional offices.

Mr. LEVITAS. That raises another question in my mind, that I have had some difficulty formulating, and I suppose the question sort of runs something like this. That regardless of what guidelines or policies you might have, whether verbal or in writing, and I think there is benefit from having them in writing, that ultimately the extent to which settlements which are appropriate are made, depends on the judgment of individuals.

Now, recognizing the fact that the Superfund, as it is presently constituted, does not have enough resources in it to clean up much more than 100 sites out of the 400 to 600 or so in the priority list, leaving aside the thousands of others that are out there, it seems to me that one of the benefits of this type of hearing, and others, is to emphasize the absolute necessity of conserving resources when they are capable of being conserved, and not devoting Superfund money where there are real responsible parties out there who are financially capable of paying for the cleanup.

Mr. **Mays**. I agree with you, Mr. Chairman. I think that we all recognize the Superfund, and the fund that is established in that act, are limited, or is limited, and that whether it is extended or not, long after whatever moneys are made available are exhausted, there will be enforcement tools to clean up these sites.

I think that some of the things that are happening now, such as the decision in the Chem-Dyne and other things of that nature, we put out an awful lot of guidance in the last several months, that have been concurred in by Mr. Lucero's office and ours, that I think will be helpful, particularly in cost recovery actions, and 106 orders, and that sort of thing.

I think that we are taking a lot of steps toward developing and maturing our hazardous waste protection program.

Mr. **Levitas**. To what extent has the new Administrator participated in giving direction to this new approach?

Mr. **Mays**. I can tell you what I am aware of, and perhaps Mr. Lucero has greater knowledge than I.

First off, the Administrator has given signals in the form of express, written memorandums, to the regional offices, and to the Assistant Administrators, as well as the spoken word, at various meetings, that he considers enforcement to be a very high priority in the Agency, and that he has committed himself to the Congress, the President, and the public, to carry that out.

Personally, my personal observation is that I see a great deal of improvement at the Agency, with regard to the attitude toward enforcement, and toward the willingness to stand behind the words that are spoken, indicating that commitment.

The Administrator, and particularly the Deputy Administrator, Mr. Alm, have both given a great deal of attention, and expressed a great deal of interest in seeing that enforcement policies are promptly and completely developed at headquarters, to be furnished to the regions, so that they can proceed as expeditiously as possible in the enforcement field, not only in hazardous waste, but in the other areas also. They have installed a number of management practice tools, which will—by which they can keep track of what we are doing in our office, to help develop those policies, which I think is one of the major functions that headquarters can fulfill, to develop policy for the regions to use.

In addition to that, they are also, of course, interested in individual cases, and how they are coming along. But I think their greatest interest, the greatest thing they could do, is to provide the leadership and the signal, if you will, from the top, that this is a top priority item, and that they want it done.

Mr. **Levitas**. Is that signal coming?

Mr. **Mays**. It is my opinion it is. I think that in talking with a lot of my fellow employees there at the Agency, and with people in the regions, that they certainly get that feeling, also.

As I said, I feel that the attitude at the Agency toward enforcement has improved considerably in the last few months.

Mr. **Levitas**. I just have one last question at this time, and that has really two parts.

The first is, do you think that these settlement guideline policies will expedite the conclusion of settlements, or passing on to litigation in getting on with the cleanup, or do you think that it will provide incentives for further delay, and endless discussions, which is something we have had examples of?

In other words, do you view these guidelines as giving the opportunity to shorten the rather extended negotiating process that has previously gone on? No. 1.

No. 2, are there means by which Congress or the Agency, through administrative action, can create additional incentives, and benchmark time periods to get the parties in to settle, or not to settle, and have some timeframe within which some determination will be made to do one or the other, rather than letting it go on ad infinitum?

Mr. **Lucero**. If I might answer that, Mr. Chairman.

The policy will help. It is hard to predict exactly how, but it is our expectation that it will. It will expedite it. But there is more of an answer to your question than just that.

The Agency has made a decision, again, approximately 6 months ago, that it would impose on itself approximately a 60 to 120 day negotiating period.

So while there may be, again, extraordinary circumstances that require those periods to go longer, the target period is 60 to 120 days. Depending on where that negotiation begins, if it begins after the feasibility study is completed, the decision may be to have the Superfund Program take steps to clean up the site, and that any further action would be delayed until cost recovery.

In the cases where it is an enforcement lead site, where the enforcement authorities are being used to compel the cleanup, after the 60 to 120 day period, a decision will be made whether to issue an administrative order, or if necessary, to proceed directly to court, depending upon the circumstances.

The preferred approach in those enforcement lead cases would be to issue an administrative order, and there is some draft procedures that have been developed, which we are in the process of refining, to—again, it is a sort of additional guidance, set out a practice, or a guideline, as to how to manage the enforcement process, and that is a major component.

Mr. **Levitas**. Thank you.

Mr. Molinari.

Mr. **Molinari**. Mr. Lucero, before we started the hearing today, you and I had a brief conversation, and I was quite interested in the information that you gave to me with respect to the availability of funding, and the use of available funds.

I think it would be interesting if you could repeat what you told me, and good for this subcommittee to get it on the record, and it also sets the stage for some followup questions.

Could you essentially repeat where EPA is with respect to the expenditure of available funds for cleanup sites?

Mr. Lucero. With the acknowledgement that these numbers are a little loose, I cannot remember the precise amount, there was approximately, in 1983, $210 million given to the Agency for cleanups, as a part of the appropriations.

I believe that is one number I am not quite comfortable with.

The Agency, we have committed, as I recall, at last measure, which was approximately a week or so ago, I think we have obligated 99 percent of all that money. The appropriation that has come to the Agency in 1984, I believe, has got an amount of $410 million for cleanup purposes.

We are in the position of being able to project obligating all of that money.

Is there more that I could——

Mr. Molinari. Well, no. What we are essentially hearing is that the funds appropriated in 1983 and 1984 have been, or will be fully expended, which leads me to a question as to whether anybody at EPA, including the Administrator, has recommendations to Congress that they increase that level of money, in order to be able to do their job.

Mr. Lucero. I am not in a position to say exactly what might be on the mind of the Administrator, sir.

Mr. Molinari. But there is no official statement by him on this subject?

Mr. Lucero. Not at the moment. I know that there are discussions in the Agency about what approaches to take, but I do not think any of those have crystallized yet.

Mr. Molinari. Let me just say it is a little reference back to what we said earlier, but I am delighted to hear that there is a new attitude, and as Mr. Mays testified, a stronger attitude on enforcement. That is something that we have been looking for for a long time, and it is heartening to hear that that approach is being taken.

One thing that does puzzle me a little bit, and I hope you can clear it up in my own mind, is when we look at the criteria that has been set forth in this preliminary policy, no place do I hear, do I read, except perhaps by vague reference, to the priority of the hazardous condition at a particular site or sites.

Since we have heard Mr. Lucero testifying to the fact that the funds appropriated are essentially being 100-percent utilized, I cannot help but wonder wherein do we list as a priority criteria the hazardous condition, the health threat perhaps might be a better way of putting it, that might be posed by the various sites throughout the country on the Superfind list?

Mr. Lucero. This policy does not address that issue, and clearly, that would be germane, not only to whether or not a settlement might be appropriate, but whether to take action, and a whole other series of decisions outside of this guidance.

The place where that kind of assessment is being made is in some things that Mr. Thomas, the Assistant Administrator for the office I work in, the Office of Solid Waste and Emergency Responses, initiated, and that is the Agency, in conjunction with the regions, and in conjunction with the States, as well, is going through a process of establishing priorities.

Since we are just beginning the process, the priorities being established are just for this year, but the goal is to set up a multiyear plan, with sites and priorities both for fund-financed cleanup, as well as for enforcement activities, and what the process is doing, as part of it, the people are beginning to focus on how serious a site is, does it require immediate action, can we delay some of the actions because of more pressing problems, and that kind of assessment is presently going on within the definition of those priorities.

Mr. SNYDER. Would the gentleman yield to me?

Mr. MOLINARI. I would be glad to yield. Sure. I have to yield to you, sir.

Mr. SNYDER. I want to go back to the fundamental question. The gentleman from New York asked you about money and you indicated $200 million appropriated, maybe more.

What I want to ask you is, exactly what are the mechanics of administering the money?

Is that the amount that you have, over and above recoverable dollars, from polluters? If you recover some money from polluters, does it go into the fund, and have to be reappropriated, or do you have immediate access to it?

Do you understand?

Mr. LUCERO. I understand your question. The answer is: that is above any moneys we recover from responsible parties.

If the moneys that we obtain from responsible parties is to be used for a cleanup at a site, our normal practice is, if it cannot be immediately applied to initiate the cleanup, is to set up a separate escrow account, usually under the auspices of a court, to be managed to pay for the cleanup. If it is for recovery of the cost that the Agency has expended, or the States have expended for the Agency, that money will be put back into the Superfund Trust Fund.

Mr. SNYDER. So in the first instance, where it goes into escrow, it would not be required to be reappropriated, but in the second instance, I understand it would be?

Mr. LUCERO. Yes, sir, it would. And perhaps you are starting to focus on a problem that we have encountered, which is that where we have a large sum of money put up to us, say $5 million, and we—our problem is if we put it back into the trust fund, that we have to access that within the appropriation given to the Agency, and if the Agency has already committed, for example, its $2 million—or excuse me, $210 million, it cannot access that $5 million until the next appropriation, and that is a problem, and because of the need to keep this targeted to the sites, my boss, Mr. Thomas, has directed parts of his office, including representatives of my particular office, to begin looking at ways in which we might be able to manage that better, but at the moment, you have identified a problem that we do have.

Mr. SNYDER. I thank the gentleman for yielding.

Mr. MOLINARI. Picking up where we left off, there would seem then to be an interrelationship between the priority status of a dump, and the availability of funding, and might not that affect the settlement, and your settlement criteria?

You may have any number of pending cases, where they meet the 80-percent trigger, and yet you have a limited pot to deal with.

I am wondering what impact priority status would have on determining where the money was going to be spent.

Mr. LUCERO. It is hard for me to phrase an answer.

The process, maybe I could help myself a little by backstepping, and just tell you what occurred, say a year or a year and a half ago, and I do not think we were in that priority setting phase.

At that time, what dictated where we would take action is who is ready. If the State, such as a State as New Jersey, had a fund set up, and was ready to move, that would dictate that we were ready to go.

In terms of the cases that were actually filed, there were approximately 50 or so cases that had been filed prior to the enactment of Superfund, and they did not necessarily reflect the priorities that we have now come to. They were filed for reasons that were known, some of them were very serious sites, like Love Canal, and some more lesser sites, in fact, they are not even on the national priority list.

We are still dealing with those decisions that were made outside of a priority setting system, and if those come forward we would still continue to try to clean the deck to get the new ones.

Mr. MOLINARI. What is the number of Superfund sites today? I know you have added 100 and some odd more to the original 419.

Mr. LUCERO. There is 406 sites on the final national priority list, and the first update includes 133 additional sites. Those are proposed, and will go through comment period.

Add the two up, it is 539.

Mr. MOLINARI. OK. Do I understand you correctly that EPA is developing a numerical priority of these sites, so that you can look at them in the order of seriousness?

Mr. LUCERO. Well, not exactly in that sense. What we are doing is setting up plans for where we will be spending our money. They will not produce numerical order, but within that plan, by region, by State, you will be able to see the State's priorities, building it up, the region's priority. And if we build it up totally, you can see the Agency's priorities.

Mr. MOLINARI. Take New Jersey, for example, where I think they had originally 65 sites, they established the priorities within their State, and then they submitted the list to you?

Mr. LUCERO. Yes, sir.

Mr. MOLINARI. Are you bound by their ranking?

Mr. LUCERO. No, sir.

Mr. MOLINARI. You are not?

Mr. LUCERO. No. Although what our basic objective, I should say our basic policy is, to work with the States to identify the priorities, but we are not bound in that same sense, no.

Mr. MOLINARI. So it is quite possible, with the expertise that is available to you, that you can convince the State that priority No. 10 should really be No. 1 for example?

Mr. LUCERO. Yes, sir.

Mr. MOLINARI. I would like to get back to Seymour, which is one of the sites we are looking at today.

What is the projection, as to where the Government is going to come out on Seymour? Will we come out whole on that site?

Mr. **Mays**. Congressman Molinari, we always hope we come out whole, or 100 percent, that is our goal, as I have stated.

With regard to Seymour specifically, there are negotiations which are going on now, with some of the responsible parties.

I would prefer that we not get into specifics with regard to the—our direction, or our plans in that case, other than to say yes, our goal is to come up with 100 percent of the cleanup. Beyond that, I would prefer that we avoid it, unless we can do it in executive session, something of that nature.

Mr. **Molinari**. I can understand your concern. I certainly do not want to open up the door to something that would prejudice the Government's case.

Mr. **Mays**. I would be happy to furnish you with a status report, if you like, but we would prefer to do it under the terms of the agreement that the Agency has.

Mr. **Molinari**. Maybe I could ask a somewhat generic question, and if you believe the answer to that might prejudice the Government's case, well, just pass it.

When we look at the number of identified, responsible parties, and those that have not been released by the phase I settlement, and since there is joint and several liability, one sits here and wonders why we could not come out at 100 percent.

Mr. **Mays**. I think we can. We are optimistic about that.

Mr. **Molinari**. I will press no further on that subject.

Mr. **Mays**. We have over 100, as I understand it, parties who, at the very least, we are looking to. The *Seymour* case, as you know, is somewhat structured, or somewhat different, in that there is a consent decree, and then there are other parties who have entered into an agreement, and then there are others who have not.

And based on what I understand about the case, we believe that there are parties remaining who can fulfill the requirements for a complete 100-percent cleanup.

Mr. **Molinari**. Let me then——

Mr. **Levitas**. Will my colleague yield?

Mr. **Molinari**. Yes, surely.

Mr. **Levitas**. Before we get too optimistic, or too pessimistic about this, I would suggest that we do not have the slightest idea, right now, what the total cost of cleaning up Seymour is going to be. We have got some estimates, which may or may not come in on target for cleaning up the surface.

I do not think I have—I am sure I have not heard of anybody who has been bold enough to suggest how much it is going to cost to clean up the subsurface, or even what the nature of the contamination is in the subsurface. Am I right on that?

Mr. **Mays**. As I understand the settlements, the surface will be cleaned up, regardless of the cost.

Now, you may or may not be—I think you are probably correct in that it is very difficult to determine exactly, beforehand costs of ground water contamination cleanup, but I think there are probably ways of getting within the ball park.

Mr. **Molinari**. Are you saying that there is enough money in the settlement, to cover a total phase I, or surface cleanup?

Mr. **Mays**. The consent decree requires the contractor for the 24 parties, I believe it is, who entered into the consent decree, which is Chemical Waste Management, Inc., to complete the cleanup, regardless of costs. There was a certain amount of money placed into a trust fund by the 24 settling parties, who then, in addition to that, obtained the surety bond, to guarantee the performance of the work, and I believe that was $15 million, but the agreement of Chemical Waste Management, which signed the consent decree, was to complete the cleanup regardless of the costs.

So assuming that that is—that obligation is fulfilled, my understanding of the agreement is that Chemical Waste Management will clean up the surface entirely.

Mr. Lucero may have a different understanding. If so, I stand to be corrected, because my knowledge of this is basically from staff briefings, and reading the consent decree.

Mr. MOLINARI. Mr. Lucero, do you have something different to say?

Mr. LUCERO. No, sir.

Mr. MOLINARI. OK. There was some $7.5 million paid in cash by the settling parties, and a $7.5 million bond?

Mr. MAYS. $15 million bond, on top of the $7.5 million.

Mr. MOLINARI. So you had $22.5 million secured by cash, or by bond?

Mr. MAYS. That is correct.

Mr. MOLINARI. What you are saying is that even if the cleanup cost exceeds that total sum, then the responsibility has been contractually assumed by Chemical Waste Management, who will then look to the responsible parties for reimbursement?

Mr. MAYES. Yes; that is my understanding of it. That Chemical Waste Management's obligation is not dependent upon the amount of the money in the fund, the $7.5 million, or the $15 million surety bond, but is absolute in terms of whole surface cleanup.

I have the decree here, and I will be glad to check that.

Mr. MOLINARI. I wish you would. When you reach an agreement like that, what assurances do you have that the cleanup company will have enough assets in order to be certain that they will perform in accordance with the agreement?

Mr. LUCERO. In this particular case, Mr. Molinari, before we considered the offer, we ran a financial analysis of the contractor, and it is our routine practice, if we—both before we begin discussion, and if there is a proposal of a contractor, as part of the discussions, to make that type of analysis.

Mr. MOLINARI. While Mr. Mays is looking up the answer, I would like to ask whether the *Seymour* settlement would have been approached in the same way today applying the proposed settlement policy?

What was done in the *Seymour* case, that would not be done today, if this new settlement policy is adopted.

Mr. LUCERO. The one change that I think that is clearly—let me start that over.

I do not think it will leap out to you from this guidance, but the one thing about Seymour that we would not do, is run what I call the second phase of negotiations, the way it was run.

Just for background, there were multiple negotiations in the *Seymour* case. There were a pattern, different groups forming different times, coming to the Government and saying we have a proposal.

The Government made a decision, in approximately June, and I was not personally involved in that, so I cannot give you full factual details on it, but it made a decision that it would decide to make a total estimate for the costs of the cleanup, surface and subsurface, and then it would attempt, as a one time offer, it would give to every responsible party an opportunity to settle their share, based on a volumetric calculation.

We neither have run one of those since then, and clearly we would not do it, because among other things, we would not take a case—in a case, we would not go one responsible party by one responsible party. We would only dedicate our resources if, when the parties got together, they could put together enough effort to come forward with an 80 percent bigger offer, in which we might begin to discuss.

Mr. MOLINARI. Excuse me for interrupting, but how do you come up with 80 percent, when my understanding of Seymour is that you had to conclude and complete phase I, before you could run the proper tests, in order to determine the cost of the final phase of the subsurface cleanup?

I am just wondering, how does EPA, under that guideline, come up with a figure to determine the 80 percent?

Mr. LUCERO. I think the answer is the one that both Mr. Mays and I gave earlier to the Chairman, which is that it may be necessary to do a surface discussion to be followed by a ground water discussion. You may not be able to do the two together.

Mr. MOLINARI. But what you are saying is keep those parties involved liabilitywise, and not release them. That is essentially the difference between what happened in Seymour in the past, and the attitude and approach that would be taken in the future, in a similar case, is that right?

Mr. LUCERO. Yes, sir.

Mr. MOLINARI. Mr. Mays, are you ready? I can ask some more questions.

Mr. MAYS. No; I am ready. Chemical Waste Management, Inc. is responsible for completion of the work regardless of the amount that it costs.

Mr. MOLINARI. I just have one or two further questions.

We talked about the 80-percent threshold which is an interesting theory. It was my understanding that a threshold of 70 percent was discussed. Do either one of you know whether that is so?

Mr. MAYS. Congressman Molinari, when we were developing this threshold concept there was some discussion as to whether it was advisable to put a threshold in the policy at all once there was at least a majority, more or less feeling that there should be a threshold at least on a draft basis. The question then became what should the threshold be? There were various figures pulled out and I think to some extent we have to recognize that whatever figure we put in there is somewhat arbitrary.

It was the opinion of the Deputy Administrator when the matter was—when he was briefed on the matter and asked for his opinion that 80 percent was appropriate; 70 percent may have been talked about as the threshold figure but there were probably a number of other figures too, perhaps 90 percent. The Administrator concurred in the 80-percent figure and this is at least the figure that we are using on a trial basis.

Again, I personally believe it to be arbitrary, of necessity arbitrary. Again, and I want to emphasize this, because it is very easy to take that 80-percent figure as the figure that a settlement will be approved at and that is not our intention at all. It is primarily a resource management tool that we are telling our regions that they should not spend a whole lot of time expressing anything less than this unless there is awfully good reasons to do otherwise.

Mr. MOLINARI. I clearly understand that and I appreciate the explanation.

Who is responsible for determining the 100-percent figure? Which portion of EPA?

Mr. MAYS. I think it is a mutually agreed figure. I know that Mr. Lucero's office and my office both feel that if we can get 100 percent in any case, that that is our goal and I do not——

Mr. MOLINARI. No, I do not mean the determination to go after 100 percent. But who is responsible for determining what the total cleanup cost is so that you can multiply it by 80 percent to come up with the threshold?

Mr. MAYS. Mr. Lucero's office can discuss that.

Mr. LUCERO. Normally the responsibility for putting the documentation together would be done on the technical side to identify the costs. The final figures that we work with in discussions with responsible parties would be agreed upon between the legal side, the Department of Justice, if they are involved, and the technical side. But the initial development will come out of our office.

Mr. MOLINARI. I have one last question.

It was reported that Agency officials acknowledged at a news conference that the reason for the issuance of the revised new policy guidelines was to "reassure critics in Congress and elsewhere that there will not be a repeat of improprieties in settlements to industry that occurred under former EPA Administrator Ann Burford."

Did either of you make this statement at the news conference; and, if so, what improprieties and settlements favorable to industry were you referring to?

Mr. MAYS. It was not me.

Mr. MOLINARI. I figured I would get an answer like that.

How about you, Mr. Lucero?

Mr. LUCERO. I do not recall making that precise statement but I did say something in response to a question: Would this have any influence in why we are going ahead with the policy? And I recall my response as being along the lines that we are putting it out because people have criticized the way we have handled our settlements and they do not—or have not felt that they were necessarily fair and above board. Our problem was that we had no ability to point to any other policy or guidelines and say this is how we do it. We very strongly felt that the lack of guidelines was one of the things that exposed us so much to those charges that we could not say look, this is how we did it.

What does not leap out of this particular briefing document that we have left with you is another step that we do not consider to be a big step but it is a critical step for this reason, that all settlements that are hereinafter entertained by the Agency will be not only assessed and a judgment made but that judgment will be reduced to writing so that if there are questions about how was this made, there will be a record that we can point to. And it is that lack of record that put us in such a difficult position to explain how we got to where we got.

Mr. MOLINARI. But is not it a fact that aside from critics in Congress and those from the outside, that there was a sharp disagreement within the Environmental Protection Agency as to the *Seymour* settlement?

Mr. LUCERO. The only person that I have ever heard that attributed to is no longer with the Agency. That is Mr. Perry. That is not consistent with my understanding of the discussions that were made.

Mr. MOLINARI. How about Mr. Ramsey? Do you have any recollection as to his attitude on the settlement?

Mr. LUCERO. Mr. Ramsey led the negotiations and was the architect of the final document that embodies the consent degree.

Mr. MOLINARI. I understood that he was very disturbed at the settlement.

Mr. LUCERO. The only thing I could say, sir, is that there were three components of EPA involved—or not of EPA, of the Government involved in the discussions and the final decision to go forward. Because it was a consent decree, it required the presence of the Department of Justice, it required the presence of the Office of Legal and Enforcement Counsel and it required the presence of Solid Waste and Emergency response. It required every one of those three offices to agree that the proposal was acceptable.

Let me repeat that.

Mr. MOLINARI. I am sorry.

Mr. LUCERO. It required each of those three offices to agree that the proposal was acceptable. If one office disagreed, it would not have gone forward.

Mr. MOLINARI. I will yield at this point to the gentlewoman from Connecticut.

Mr. LEVITAS. If the gentlewoman would, before—I just do not want to leave this, Mr. Lucero, because what Mr. Molinari is referring to I believe relates to some documents that we have obtained from EPA in which there is a very clear position taken that any statement which would involve the release from liability for ground water or splitting the two, should be rejected. And I do not want—at this point I am not going to make those part of this record for a variety of reasons, not the least of which it would be somewhat premature. But at a later stage in these hearings we are going to get into some of those documents. And I am satisfied that that is what Mr. Molinari is talking about. We will at that time have an opportunity to say if this is what the people at EPA, the staff experts were saying, what happened between that and the end of the line that resulted in just the opposite occurring? That is going to be one of the points of reference. I just mention that in case you want to—you or whoever else will be back up here at that time might want to start looking into that.

Mr. LUCERO. No, sir; I am already familiar with what I believe are the documents you are referring to and they were considered at the time and at the time it is appropriate to come back and talk, I think we can explain at least our understanding at the time.

Mr. **Levitas**. Fine, thank you.

Ms. Johnson?

Ms. **Johnson**. Thank you very much.

Mr. Lucero, one of the things that I have been concerned with in the Superfund legislation is the emergency response capabilities of the regional offices and more importantly, even State environmental protection agencies working with that regional office.

Will this kind of—you have referred in the course of your remarks to additional detailed aspects of this policy, more detailed aspects of this policy.

I am just wondering if this policy will in any way interfere with the Department's proposal to allow more autonomy to the regional offices and particularly to their capability to respond in emergency situations.

Mr. **Lucero**. No, ma'am, it should not in any way interfere for two reasons, essentially. One, this guidance is intended to complement that initiative; namely to give guidance to the place, that is the regions that will be responsible for a great deal of the initial action.

Second, this guidance does not deal with the emergency response area at all and it should not interfere for that reason.

There are other guidances around that will be developed over time. Some of them are in draft now that will try to refine the relationship between the emergency response and the enforcement activities.

Ms. Johnson. Thank you. I would be very interested in any material you have that would indicate to me your thinking on how you are going to clarify those and make it more possible for emergency responses to be carried out in a timely fashion.

Mr. **Lucero**. Certainly.

Mr. **Levitas**. Thank you.

Mr. Albosta?

Mr. **Albosta**. Mr. Chairman, at this time I will reserve some questions for later if you are going to continue the hearing after this vote.

Mr. **Levitas**. It was my intention, frankly, to wrap it up but if you would like——

Mr. **Albosta**. Let me just say, or ask one question and it may be that I am premature to some further hearings, but what was the problem at EPA, Mr. Lucero, if someone was complaining about the settlement at Seymour?

Mr. **Lucero**. Mr. Albosta, that is not an easy question to answer. There were several difficult aspects of the settlement that had to be decided by final decisionmakers. There were a series of very hard decisions, I thought, that had to be made

There was not a problem. There were, as in any agency, there were disagreements about the right way to proceed, there were disagreements about how, what the Presidential effect of certain decisions would be and whether those were worth taking and there was a great, great deal of discussion between the Justice Department and the Legal and Enforcement Counsel's office and my office about what were the appropriate decisions that ought to be made. It was not a single problem.

Mr. ALBOSTA. You do not want to discuss these problems you know about at this time?

Mr. LUCERO. As Mr. Levitas has indicated, he wishes to explore that in some detail.

Mr. ALBOSTA. I understand that there will be further hearings pertaining to that question, and so I will wait until those hearings occur.

Mr. LEVITAS. I appreciate that, Mr. Albosta.

I think that as the hearings unfold, there will be a logical progression where this would somewhat more appropriately fit in.

As I have indicated, this is simply the opening hearing in a series that will focus on this aspect of the Superfund Program in how we are dealing with the problem of clearing up the hazardous waste sites that threaten the Nation's water supply and the *Seymour* case, because of its myriad of implications, raises or illustrates a large number of those concerns and gives us at least one example of looking to in terms of shaping policy for the future both administrative policy as well as statutory policy.

I think that clearly the *Seymour* case raises questions that Congress is going to have to resolve statutorily, whether it is the State share or some of the other areas that we are dealing with, as well as the stewardship of EPA under the circumstances in dealing with the law as it is now written.

Do either of you know offhand how many of the Presidential appointees have now been confirmed, the new appointees?

Mr. LUCERO. No, sir. I can tell you the ones I know of, but I cannot tell you how many totally.

Mr. LEVITAS. The last question is: How many sites on the national priority list have been cleaned up fully?

Mr. LUCERO. In terms of total cleanup? I believe the number is five.

Mr. LEVITAS. I have no further questions at this time. I appreciate both of you being present today. Mr. Mays and Mr. Lucero, it has been extremely enlightening as we now, at the threshold, have an opportunity to focus on this important new policy which is developing. And I trust that you and the other officials at the agency will keep this subcommittee fully informed, as this matter goes forward.

There being no further business to come before the subcommittee today, the subcommittee stands in recess subject to the call of the Chair.

[Whereupon, at 1:23 p.m., the subcommittee was recessed, to reconvene subject to the call of the Chair.]

HAZARDOUS WASTE CONTAMINATION OF WATER RESOURCES (SUPERFUND CLEAN-UP POLICY AND THE SEYMOUR RECYCLING CASE)

WEDNESDAY, DECEMBER 14, 1983

House of Representatives,
Subcommittee on Investigations and Oversight,
Committee on Public Works and Transportation,
Washington, DC.

The subcommittee met, pursuant to call, at 11 a.m., in room 2167, Rayburn House Office Building, Hon. Elliot H. Levitas (chairman of the subcommittee) presiding.

Mr. Levitas. The subcommittee will please come to order.

This morning the Subcommittee on Investigations and Oversight of the Committee on Public Works and Transportation continues with its examination of the contamination of our Nation's water resources by toxic chemical wastes and of the U.S. Environmental Protection Agency's efforts to carry out the 1980 Superfund law for cleaning up abandoned hazardous waste sites.

Of particular concern to the subcommittee during today's hearing and the one scheduled for tomorrow are the events that led to the stockpiling of huge quantities of hazardous wastes at a recycling site in Seymour, IN, and to the eventual abandonment of that site by its owners.

I might add that these 2 days of hearings are, as I said, a continuation of previous hearings we have had on the subject, but will be the commencement of several days of hearings focusing on all aspects of the Seymour, IN situation, because our investigation has revealed to us that in the Seymour, IN situation almost every aspect of the Superfund Program and EPA's role have come into focus.

The role of private industry, the role of local and State officials, the role of Government officials, all seem to be borne out in what occurred at Seymour, IN. It is for that reason that we turn our attention to this particular case to give us additional insight into this entire matter, and we expect to hear from many individuals, many businesses, many local and State officials, and both past and present officials of the Environmental Protection Agency.

We look to hear from the witnesses that we have scheduled to testify as to why this was allowed to happen, and why it has taken so long to bring about the beginnings of a cleanup of the 60,000 drums of toxins that were literally left to rot on the surface of the ground, allowing their hazardous contents to leach onto the ground and to contaminate a nearby stream, pollute the ground water, and threaten the very health and well-being of those who live nearby, some as close as a few hundred yards.

We look to hear about the concerns that local residents of Seymour, IN had about the recycling site, and why they found it so difficult to obtain help from their local and State officials. We look to hear why local officials, once they were cognizant of the problems and dangers of this hazardous waste site, encountered so much difficulty in getting State and Federal regulators to respond swiftly and decisively and effectively.

In this regard I look forward to hearing from today's witnesses. We also look to learn why State and Federal officials allowed this site to continue in operation for so many years, despite the knowledge of problems and recurring violations of Federal and State air and water pollution control requirements.

We look to examine the Government strategy and actions in handling this case, and whether the resources necessary properly to address ground water problems at this site will be available. There are indications that this may not be the case.

We want to learn why the U.S. Environmental Protection Agency and the Department of Justice spent years reviewing this case, a case which appeared to be languishing for years, and then, all of a sudden, it became a top priority.

I want to note that I find it very interesting, or encouraging, or both, that just 5 days ago, the Justice Department filed suit in Federal district court against some 50 additional companies involved in the Seymour recycling waste site.

I find it interesting that now almost 4 years since the Justice Department filed its initial complaint in this case, it has finally decided that it might be time to get tough, and that they managed to do this just a few days before coming up here to tell us all about the progress they are making.

We expect to hear testimony concerning the cleanup process itself, how the original settlement was reached, what its objectives were, and how it occurred, how it happened to occur at the time that it did. And yet, these are only a few of the many questions that we will be having.

The relationship between the private sector companies involved and the officials of Government will also be an aspect of our inquiry. We will, today, however, be focusing on the aspects of what occurred at Seymour, IN and what the response was of governmental officials. We will also be hearing, as I indicated earlier, present and former EPA and Department of Justice officials and representatives of the companies involved in the waste site in the weeks ahead.

Before asking our very good friend and most distinguished colleague, Congressman Hamilton, to introduce the panel today, I would like to inquire whether my colleague, the ranking Republican member, Mr. Molinari, the gentleman from New York, has an opening statement?

Mr. MOLINARI. Yes, I do, Mr. Chairman. I would like to welcome Mr. Hamilton here. I know he has that continuing concern about this problem.

We hope that these hearings can answer some of the questions that you have raised in the past and hopefully satisfy the questions and concerns of your constituents.

Mr. Chairman, I think you have covered the scope of the hearings quite well. These hearings on the Seymour Recycling Corp. and the hazardous waste site are important to help the subcommittee understand why the Government accepted an initial settlement with a small number of corporations and released them of further responsibility for the site.

The question is whether these corporations were put in an unnecessarily favorable position when they received their release of liability in exchange for a phase I surface cleanup. Apparently it is EPA's position that there are a sufficient number of solvent generators remaining to pay for cleanup of any ground water and subsurface contamination.

Another question arises as to whether the generators which were not a party to the initial settlement of phase I cleanup would be entitled to relief on the basis that they were not given the opportunity to settle.

In this case, allowing a small group of generators to settle is questionable, since they would contribute less than the nonsettling generators. Certainly, as a matter of equity and fair play, one wonders whether or not the nonsettling generators were treated appropriately.

Finally, we need to look at the ground water question. Should this type of settlement have occurred with the possibility that the ground water cleanup may cost two to three times the estimated cost?

This particular settlement raises several issues concerning the procedure by which it was reached and requires careful scrutiny. We need to find out whether the settlement was a deviation from policy, and whether future settlements will follow a similar route.

I would like to say, Mr. Chairman, that there are a number of unresolved, and I think, very serious questions concerning this particular site and the manner in which the cleanup agreement was reached. I will say at the outset that I have a number of concerns, but one very serious one. One of the 24 settlers, Chemical Waste Management, and its subsidiary corporation, contributed to the phase I settlement, and at the same time is being paid to clean up the site.

Now, that in and of itself may not be wrong, but it certainly raises some very serious questions and one that I hope we can shed some light on during the course of these hearings.

I welcome the witnesses, and look forward to your testimony. Thank you, Mr. Chairman.

Mr. Levitas. Thank you, Mr. Molinari.

I can give you my assurance that we will explore fully that aspect of this question, because it is of significance. And now, as you noted, Mr. Molinari, Congressman Hamilton has had a continuing, ongoing interest in this matter, and we hope that through these hearings we may be able to address some of the concerns which he has called to our attention with diligence over these last months.

Congressman Hamilton, we welcome you today and look forward to hearing from you and your constituents.

TESTIMONY OF HON. LEE HAMILTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. HAMILTON. Thank you very much, Mr. Chairman, and Mr. Molinari. I represent the Ninth District of Indiana. That district includes Jackson County, IN. Jackson County is the county in which Seymour and the Seymour recycling problem exists.

Let me just say that those of us from that part of the country take heart from the very thorough and careful review that this Subcommittee on Investigations and Oversight is conducting with regard to the experience we have had there.

We deeply appreciate the leadership that you, Mr. Chairman, and Mr. Molinari, and the other members of the subcommittee have given to the House and to the Congress and to the country in your concern about hazardous waste and proper action to correct it.

I think we have three witnesses here who will be helpful to you in understanding the problem. They are the mayor of Seymour, the Honorable William C. Bailey—I might add that he was just elected a few weeks ago—Mrs. Judith Smith, who is the president of the Seymour League of Women Voters. That group has been very active throughout the entire experience in this matter, and have been constructive in their contributions to resolving it.

We also have Mr. William E. Vance of the law firm of Vance & Phillips in Seymour who was the receiver for the Seymour Recycling Corp., appointed by the Jackson County Circuit Court.

So I am very pleased to introduce these witnesses to you with the knowledge that they will help your understanding of the problem.

I think the first statement will come from the mayor, Mr. Bailey.

Mr. LEVITAS. Thank you very much, Lee. I appreciate your being here and introducing us to your constituents.

Let me say this at the outset. That this is an investigative and oversight subcommittee. As a result, all testimony before this subcommittee is received under oath. It is for that reason, and not to single you out for special attention, that I will now administer the oath to you.

If all three of you would raise your right hands.

[Witnesses sworn.]

Mr. LEVITAS. Thank you very much. We welcome you. We look forward with a great deal of interest to your testimony and to the light that you can shed on some of the issues that we have raised, and particularly from the vantage point of the people who live in and have been the closest to, literally, the situation at the Seymour recycling site.

With that, Mayor Bailey, I understand you are to be the first witness of the three.

TESTIMONY OF JUDITH SMITH, PRESIDENT, SEYMOUR LEAGUE OF WOMEN VOTERS, SEYMOUR, IN; HON. WILLIAM C. BAILEY, MAYOR, CITY OF SEYMOUR, SEYMOUR, IN; WILLIAM E. VANCE, RECEIVER, SEYMOUR RECYCLING CORP., SEYMOUR, IN

Mr. BAILEY. Mr. Chairman, the way we thought that it might be the easiest for us to make our presentation to your committee would be to divide our basic presentation into thirds. Mrs. Smith, probably, in Seymour has one of the greatest libraries of the situation as it occurred from day one up through a point in time. To allow Mr. Vance, then, as the court-appointed receiver to take over a second phase of early attempts at cleanup.

Then that I would summarize, trying to give an overall view of the fears and concerns of the citizens during the entire period, if that is acceptable to you, and Mr. Molinari.

Mr. LEVITAS. That sounds fine. And we will proceed on that basis.

Mrs. Smith, you may proceed as you so desire.

Mrs. SMITH. OK. Thank you. I am speaking to you as a citizen of Seymour and a league member who became concerned about the Seymour Recycling Corp. facility over 5 years ago.

Seymour is a small town in southern Indiana ideally located where I-65 and U.S. 50 intersect. Access for trucking materials is considered one of our strongest economic assets, and the trucking of hazardous wastes has proven to be one of our largest deficits.

The League of Women Voters of Seymour decided to make a study of the recycling facility after an exploding barrel created a gigantic grey smoke ring which drifted across the town. A news account from a neighboring community 10 miles west of Seymour reported that Senator Lugar's representative, officials of the EPA and the State board of health had met with a small group of area residents regarding the facility. This also sparked our interest in what was really happening at Seymour Recycling.

We learned that in 1968 a long established local manufacutirng firm, Seymour Manufacturing Co., had rented 11.3 acres of the city's industrial park to begin recycling waste oils and other materials. No one was unduly alarmed as it was a local company operating the facility and we are a conservative community which believes in reusing products rather than throwing them away.

An incinerator and a distiller were the equipment used to dispose of or recycle materials brought to the site. However, an accumulation of unrecyclable materials began to take place at the facility.

The facility was operated as Seymour Manufacturing Co. until 1976 when Seymour Recycling Corp. was formed under the previous board of directors. In May 1978, ownership changed again with the new owners being brokers for hazardous wastes to the recycling facility in the past.

A few residents in the area had sent a petition to Senator Lugar about the environmental hazards of the site. Being good league members, we were not about to draw conclusions without facts. Hopefully, we were going to find a benign smelly mess.

The league arranged a public meeting with SRC management and Senator Lugar's representative. The State board of health refused to allow anyone to participate since litigation was in process. We learned that area residents were very dissatisfied with the operation of the incinerator. They were also critical of a growing number of barrels rather than a reduction.

The Seymour mayor, who was a chemical engineer, defended the management and stood behind the facility 100 percent. He reassured the public there was no threat from the continued operation of the recycling facility.

Another league member and I decided to make a trip to Indianapolis and look at the State board of health files. We discovered numerous violations and requests for compliance at the Seymour Recycling facility in the files.

Spills, faulty valves, a poorly maintained incinerator allowing hazardous materials to be emitted from the smokestack, bacteria killed at the local sewer plant from hazardous wastes dumped into the sewers, payment to a local farmer for stunted corn, a large accumulation of barrels and complaints from area residents were all documented in the files.

The State board of health personnel emphasized that the barrel contents were largely unknown and the cost of analysis by them as prohibitive. The lack of proper laboratory equipment for analysis and staff to oversee sites has been a definite handicap in controlling hazardous waste sites in Indiana.

We no longer had to study. We knew we had a serious hazardous waste problem in our community. Through the Hamilton, OH league, we learned that the new owners were under pressure by the State of Ohio to clean up their Chem-Dyne operation in Hamilton, also.

The inevitability of ground water contamination was apparent. The industrial park uses five deep wells for its water supply and residents in the area use shallow wells for their water supply.

Emissions from the incinerator smokestack were a constant threat to all the residents of Seymour, depending on the direction of the wind at any time. Late night burnings were the most feared by close residents. How much of this hazardous material drifted onto the crops in the surrounding fields? Did the livestock eating these crops ingest large amounts and how much has been absorbed by people eating the livestock?

Are we going to have an increased chance for cancer development due to the toxic chemicals? How much has this air pollution contributed to respiratory illnesses, eye irritations, and headaches? We have no answers to these questions at this time.

The Center for Disease Control recently conducted a study of cancers in the immediate vicinity of the site. Their conclusions were that the cancer rate is higher than usual, but they could not be directly associated with the chemicals on the site. There is one short road in the area with five homes on it—three of these homes have a cancer victim.

League members talked with the local fire chief, the mayor, the State fire marshal's office, the State board of health personnel, the State attorney general's office, the local State police, the manager of the industrial park, the Governor's office, Senator Lugar's office, Representative Hamilton and his office, and anyone else we could about the site. Many times it was obvious that we were considered hysterical housewives, but once in a while someone understood the hazard.

One official offered the candid comment that it would be very difficult if not impossible to get the site closed or cleaned up because there hadn't been a fatality yet. I think that one comment made me more determined to continue trying to get something done—to silently stand by and wait for a fatality seemed the most irresponsible thing I could ever do.

Cleanup costs were estimated at several million dollars for Seymour Recycling. Lacking the necessary money and having few alternatives, the State board of health had entered into an agreed order with the new management to reduce the inventory at the site.

The league routinely called the State board of health and the State attorney general's office for any action they were taking. I believe our persistence kept officials' attention focused on the site. League members attended all hearings held in the county circuit court as the State tried to keep the firm in compliance with the agreed order.

When Judge Brown called for a recess of a hearing on Seymour Recycling and announced a tour of the site immediately, we scrambled into a car and stopped at a league member's home for boots. The sagging open gate allowed us to enter into a virtual cesspool of murky, varied colored puddles.

Barrels were stacked three deep with contents oozing out everywhere. The chemical stench was heavy and made breathing difficult. Headaches and watery eyes stayed with us the rest of the day. We had no desire to ever return. How anyone was able to work there is unbelievable.

While the court procedures were being carried out, the management declared bankruptcy. Other accounts of sites across the United States tell the same story. The judge ordered the gate locked and appointed a receiver in February 1980, almost exactly 1 year after our first public meeting. The Seymour League was elated to see the facility closed. No more material would be brought to the site. After the site was closed, the barrel count went from 35,000 to 60,000. We felt vindicated.

I was especially shocked later to learn that this was one of the largest accumulations of hazardous wastes in the country. It was also shocking to learn from a newsman that some of the wastes formed phosgene gas when ignited.

We were left with a closed facility and no way to get it cleaned up. In fact, we still couldn't get officials to admit we had a dangerous hazardous waste site in our community.

The receiver and several others in the community began to realize what we were so concerned about. We coordinated plans for a public tour of the site with news media invited.

The day before the planned tour, a State board of health official found a smoking barrel and declared the site unsafe for the tour and even ordered an evacuation of some nearby residents for a few hours. Just the admission we needed from officials. By the time we met the following morning, EPA had a contractor in town to supposedly secure the site and prevent rain water runoff.

The necessity for public pressure on officials is apparent by their reactions. It is unfortunate that you have to use these tactics, but we found no other effective way to get the kind of action needed from our so-called protective agencies.

We were left with a continual fire hazard from the accumulated wastes. Many of the chemicals have a low flash point. Lightning from a summer thunderstorm could create a spark.

The crash of an airplane from a nearby runway was always a possibility. Rusting, leaking barrels were also continuing to contaminate the soil and ground water. A housing development one quarter of a mile north uses shallow wells for its water supply. The upper aquifer flows in a northwest direction directly toward the homes and wells.

We felt Superfund was the answer for the now estimated $30 million cleanup. After its passage, we were to be disappointed again to learn that some technicality in the law placed a municipal owned site on a 50/50 matching fund basis for cleanup. The city nor the State could come up with the matching $15 million.

Off and on, during election years, we would get some money allocated from the Clean Water Act for several studies, filters for rain water on site and minor work on the site. The party in power at the White House seemed to control the purse strings. We were discouraged many times and couldn't see what else to do. Five years is a long time to wait for some cleanup to begin.

Late last fall shortly before the 1982 election, we were told by Senator Lugar and Governor Orr in a press conference that EPA and the generators of the wastes at SRC had reached an agreement to clean off the surface materials for $7.7 million. Fear that surface cleanup would satsify EPA and no subsurface cleanup would ever begin caused much doubt about the agreement for us.

Realizing how the rusting, leaking barrels still posed a continual fire hazard and ground water contamination, we decided to make no comments about the cleanup proposed and let it proceed as it would. The evening before the hearing in Federal court for acceptance of the agreement, an EPA attorney called me and wanted to know if I would appear for the citizens. It took me several hours to decide to attend.

I was reassured when Judge Steckler had the same concerns about the subsurface cleanup as I had. Several days later he decided to accept the so-called Sweetheart Deal. It was the best deal the citizens of Seymour could get in a very difficult position.

The barrels are all empty and gone today. We have had a lot of unpleasant odor across our town this summer. Even today the winds from the southwest carry the smell across the town. The ground must be so saturated the chemical odor is still there in spite of the barrel removal.

We already know the upper aquifer and probably the lower aquifer are contaminated by an EPA ground water study. We strongly suspect there are buried materials on the site.

The area residents have filed a petition with the Federal court to have city water run to their homes at a cost of approximately $300,000. Some of the remaining generators who were not a part of the original surface agreement have settled on an amount for subsurface cleanup and have paid it to the court.

One of the recommendations made in the EPA ground water study was to cap the site with asphalt after it is cleared of barrels. It could then perhaps be used for tennis courts. This seems vaguely familiar as the answer for Love Canal—we couldn't believe it when we read it.

I am concerned about Emelle, AL where most of our hazardous waste went. Will they eventually have to use Superfund for a cleanup? Are we simply moving these wastes from community to community in a giant shell game?

I have asked myself many times how this happened in Seymour. I have drawn the conclusion that those who knew what was going on failed to let the public know until it was too late. Violations at the Seymour Recycling site were not vigorously prosecuted. The State did not act soon enough in closing the site.

After cleanup costs got completely out of hand, there was the question of who is going to pay the bill. It was easier to hope if those responsible were allowed to continue operating maybe they would clean up the site. Their naiveness has cost our community dearly. Perhaps the citizens were too naive also. They expect and often have full confidence that health officials would never allow such a serious hazard to occur.

We must develop and demand the very best technology in dealing with hazardous waste in this country. We are allowing our ground water supplies and our soil to become contaminated and unfit for human use by our greed for quick and easy disposal which pays big dividends. Alternatives to the land disposal of hazardous waste must be pursued.

Prevention of hazardous waste mismanagement is clearly the better answer for our society. It cannot be left to unscrupulous corporations with questionable technology. We cannot afford the cost to our health, our environment, and the inevitable cost of cleaning it up.

I would like to thank the subcommittee for inviting me to appear. I hope my comments will assist you in reviewing the Seymour Recycling Corp. abandoned waste site.

[The statement of Mrs. Smith follows:]

My name is Judy Smith. I am fifteen year member and current of the League of Women Voters of Seymour, Indiana. I am speaking to you as a citizen and League member who became concerned about the Seymour Recycling Corp. facility over five years ago.

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The League arranged a public meeting with SRC management and Senator Lugar's representative. The State Board of Health refused to allow anyone to participate since litigation was in process. We learned that area residents were very dissatisfied with the operation of the incinerator. They were also critical of a growing number of barrels rather than a reduction.

The Seymour mayor, who was a chemical engineer, defended the management and stood behind the facility 100%. He reassured the public there was no threat from the continued operation of the recycling facility.

Another League member and I decided to make a trip to Indianapolis and look at the State Board of Health files. We discovered numerous violations and requests for compliance at the Seymour Recycling facility in the files. Spills, faulty valves, a poorly maintained incinerator allowing hazardous materials to be emitted from the smokestack, bacteria killed at the local sewer plant from hazardous wastes dumped into the sewers, payment to a local farmer for stunted corn, a large accumulation of barrels and complaints from area residents were all documents in the files.

The State Board of Health personnel emphasized that the barrel contents were largely unknown and the cost of analysis by them was prohibitive. The lack of proper laboratory equipment for analysis and staff to oversee sites has been a definitive handicap in controlling hazardous waste sites in Indiana.

We no longer had to study. We knew we had a serious hazardous waste problem in our community. Through the Hamilton, Ohio League we learned that the new owners were under pressure by the state of Ohio to clean up their Chem-Dyne operation in Hamilton also.

The inevitability of groundwater contamination was apparent. The industrial park uses five deep wells for its water supply and residents in the area use shallow wells for their water supply.

Emissions from the incinerator smokestack were a constant threat to all the residents of Seymour, depending on the direction of the wind at any time. Late night burnings were the most feared by close residents. How much of this hazardous material drifted on to the crops in the surrounding fields? Did the livestock eating these crops ingest large amounts and how much has been absorbed by people eating the livestock?

Are we going to have an increased chance for cancer development due to the toxic chemicals? How much has this air pollution contributed to respiratory illness, eye irritations, and headache? We have no answer to these questions at this time.

The Center for Disease Control recently conducted a study of cancers in the immediate vicinity of the site. Their conclusions were that the cancer rate is higher than usual, but they could not be directly associated with the chemicals on the site. There is one short road in the area with five homes on it—three of these homes have a cancer victim.

League members talked with the local fire chief, the mayor, the state fire marshal's office, the state board of health personnel, the state attorney general's office, the local state police, the manager of the industrial park, the governor's office, Senator Lugar's office, Rep. Hamilton and his office, and anyone else we could, about the site. Many times it was obvious that we were considered hysterical housewives, but once in a while someone understood the hazard.

One official offered the candid comment that it would be very difficult if not impossible to get the site closed or cleaned up because there hadn't been a fatality yet. I think that one comment made me more determined to continue trying to get something done—to silently stand by and wait for a fatality seemed the most irresponsible thing I could ever do.

Clean up costs were estimated at several million dollars for Seymour Recycling. Lacking the necessary money and having few alternatives, the State Board of Health had entered into an agreed order with the new management to reduce the inventory at the site. The League routinely called the State Board of Health and the State Attorney General's office for any action they were taking. I believe our persistence kept officials attention focused on the site. League members attended all hearings held in the country circuit court as the state tried to keep the firm in compliance with the agreed order.

When Judge Brown called for a recess of a hearing on Seymour Recycling and announced a tour of the site immediately, we scrambled into a car and stopped at a League member's home for boots. The sagging open gate allowed us to enter into a virtual cesspool of murky, varicolored puddles. Barrels were stacked three deep with contents oozing out everywhere. The chemical stench was heavy and made breathing difficult. Headaches and watery eyes stayed with us the rest of the day. We had no desire to ever return. How anyone was able to work there is unbelievable.

While the court procedures were being carried out, the management declared bankruptcy. Other accounts of sites across the U.S. tell the same story. The Judge ordered the gate locked and appointed a receiver in February, 1980, almost exactly one year after our first public meeting. The Seymour League was elated to see the facility closed. No more material would be brought to the site. After the site was closed, the barrel count went from 35,000 to 60,000. We felt vindicated.

I was especially shocked later to learn that this was one of the largest accumulations of hazardous wastes in the country. It was also shocking to learn from a newsman that some of the wastes formed phosgene gas when ignited.

We were left with a closed facility and no way to get it cleaned up. In fact, we still couldn't get officials to admit we had a dangerous hazardous waste site in our community. The receiver and several others in the community began to realize what we were so concerned about. We coordinated plans for a public tour of the site with news media invited.

The day before the planned tour, a State Board of Health official found a smoking barrel declared the site unsafe for the tour and even ordered an evacuation of some nearby residents for a few hours. Just the admission we needed from officials. By the time we met the following morning, EPA had a contractor in town to supposedly secure the site and prevent rain water runoff.

The necessity for public pressure on officials is apparent by their reactions. It is unfortunate that you have to use these tactics, but we found no other effective way to get the kind of action needed from our so-called protective agencies.

We were left with a continual fire hazard from the accumulated wastes. Many of the chemicals have a low flash point. Lightning from a summer thunderstorm could create a spark. The crash of an airplane from a nearby runway was always a possibility. Rusting, leaking barrels were also continuing to contaminate the soil and groundwater. A housing development one quarter of a mile north uses shallow wells for its water supply. The upper aquifer flows in a northwest direction directly toward the homes and wells.

We felt Superfund was the answer for the now estimated $30 million clean up. After its passage, we were to be disappointed again to learn that some technicality in the law placed a municipal owner site on a 50/50 matching basis for clean up. The city nor the state could come up with the matching $15 million.

Off and on, during election years, we would get some money allocated from the Clean Water Act for several studies, filters for rain water on site and minor work on the site. The party in power at the White House seemed to control the purse strings. We were discouraged many times and couldn't see what else to do. Five years is a long time to wait for some clean up to begin.

Late last fall shortly before the 1982 election, we were told by Senator Lugar and Governor Orr in a press conference that EPA and the generators of the wastes at SRC had reached an agreement to clean off the surface materials for $7.7 million. Fear that surface clean up would satisfy EPA and no sub-surface clean up would ever begin caused much doubt about the agreement for us.

Realizing how the rusting, leaking barrels still posed a continual fire hazard and groundwater contamination, we decided to make no comments about the clean up proposed and let it proceed as it would. The evening before the hearing in Federal Court for acceptance of the agreement, an EPA attorney called me and wanted to know if I would appear for the citizens. It took me several hours to decide to attend.

I was reassured when Judge Steckler had the same concerns about the sub-surface clean up as I had. Several days later he decided to accept the socalled "Sweetheart Deal". It was the best deal the citizens of Seymour cold get in a very difficult position.

The barrels are all empty and gone today. We have had a lot of unpleasant ordor across our town this summer. Even today the winds from the southwest carry the smell across the town. The ground must be so saturated the chemical odor is still there in spite of the barrel removal.

We already know the upper aquifer and probably the lower aquifer are contaminated by an EPA groundwater study. We strongly suspect there are buried materials on the site.

The area residents have filed a petition with the Federal Court to have city water run to their homes at a cost of approximately $300,000. Some of the remaining generators who were not a part of the original surface agreement have settled on an amount for sub-surface clean up and have paid it to the court.

One of the recommendations made in the EPA groundwater study was to cap the site with asphalt after it is cleared of barrels. It could then perhaps be used for tennis courts. This seems vaguely familiar as the answer for Love Canal. . . . we couldn't believe it when we read it.

I am concerned about Emelle, Alabama where most of our hazardous waste went. Will they eventually have to use Superfund for a cleanup? Are we simply moving these wastes from community to community in a giant shell game?

I have asked myself many time show this happened in Seymour. I have drawn the conclusion that those who knew what was going on failed to let the public know until it was too late. Violations at the Seymour Recycling site were not vigorously prosecuted. The state did not act soon enough in closing the site.

After clean up costs got completely out of hand, there was the question of who is going to pay the bill. It was easier to hope if those responsible were allowed to continue operating maybe they would clean up the site. Their naiveness has cost our community dearly. Perhaps the citizens were too naive also. They expect and often have full confidence that health officials would never allow such a serious hazard to occur.

We must develop and demand the very best technology in dealing with hazardous waste in this country. We are allowing our groundwater supplies and our soil to become contaminated and unfit for human use by our greed for quick and easy disposal which pays big dividends. Alternatives to the land disposal of hazardous waste must be pursued.

Prevention of hazardous waste mismanagement is clearly the better answer for our society. It cannot be left to unscrupulous corporations with questionable technology. We cannot afford the cost to our health, our environment, and the inevitable cost of cleanng it up.

I would like to thank the subcommittee for inviting me to appear. I hope my comments will assist you in reviewing the Seymour Recycling Corp. abandoned waste site.

Mr. LEVITAS. Thank you very much, Mrs. Smith. We have some questions for you, but as you suggest, we will go through the other two witnesses first. I will say this, however, just by way of comment, that your testimony is excellent, descriptive, to the point, gives us a much better insight into this situation, and what you and others were experiencing, but there is a sadness about your testimony that I feel, because it is so similar to testimony that I have heard from others in other places. Only the names are changed. And that is an unfolding tragedy. But I appreciate your excellent testimony.

Mr. Vance, I believe you are to follow as the next witness.

Mr. VANCE. Thank you, Mr. Chairman.

Mr. LEVITAS. Yes; if you would pull that microphone as close as it is possible, I think it would be helpful.

Mr. VANCE. Mr. Chairman, litigation that resulted in the appointment of a receiver for the Seymour Recycling Corp. was instituted early in 1978. It was a long and protracted lawsuit with many delays. Finally, on February 22, 1980, Judge Robert R. Brown, the Jackson circuit court, ordered the site closed.

On February 25, 1980, Judge Brown entered an order appointing me receiver for the corporation. Because of trial obligations that I had, it was not until February 29 that I actually began functioning as the corporation's receiver.

Initially, meetings were held with representatives of the Federal EPA, State board of health, and Indiana Attorney General's Office concerning the site and what steps would be pursued to accomplish its eradication. There was a great deal of confusion back then concerning the content of the drums that were on the site, corporate assets and liabilities and the potential hazard that the site posed. There seemed to be disagreement even on this last point within the EPA itself.

On March 18, 1980, I first met the investigating officer for the EPA. He and I toured the site on that day and he indicated to me at that time that if the State had been more cooperative with the ownership and management of the Seymour Recycling Corp., that the inventory of drums could have been brought to a manageable level, and that the business could have continued to operate. That seemed very interesting in light of the fact that we realized that—later—that the inventory had been constantly increasing during the last year or so of the site's operation.

Nevertheless, at that point in time we were left with a 13-acre site that was not in operation. The first idea that we considered was the possibility of putting the plant back into operation in an attempt to reduce the inventory. I contacted several individuals to advise me concerning the feasibility of that and concluded that there was no possibility of that being done.

At the time we entered the site, the equipment had been stripped of gauges and valves; the laboratory was fairly well cleaned out. On top of that, the assets of the corporation we considered to be almost none. There was one bank account that had $1,012 in it. Later, we found another bank account with a balance of $850 in it. The question then, as it was for so many months, is: Where would the money come from?

It was only after an incident that Mrs. Smith referred to that occurred on Friday, March 28, 1980, that we saw some activity that gave us hope that eventually we might have some assistance from the Federal Government. Certain drums of acid had been stored on a cement pad inside the site. And by March 28 the acid had eaten through those drums and was beginning to eat through drums and react with some highly volatile solvents that had been placed right next to them.

That evening, until midnight or so, I and two or three members of the staff of the State board of health, a couple former employees, were out there moving drums around to try to segregate the solvents from the acid. The next day, materials arrived to begin the containment operation. We were pleased to see them arrive, but as I think back I feel that activity was more cosmetic than anything else. For though gravel was placed throughout the site and some of the drums repackaged, that operation ended and we were left basically with the same situation that we had before.

Through this period, conferences were held with representatives of the various generators concerning either the removal of material or generator contributions to a cleanup fund, but it was readily apparent that, as receiver, there was simply no clout to negotiate effectively.

When the Federal Government filed suit against Seymour Recycling Corp. and others, seeking to recapture moneys spent during that containment operation, the involvement that I had with the EPA virtually came to a halt. I realize now that there never was much that could be done locally other than generate publicity that was generated and the pressure that the local citizens could do. Clearly, the corporation was not in the position financially to embark on such a task.

When the receivership was instituted, we discovered that there were more than $200,000 in debts. As I mentioned earlier, we had cash of approximately $2,000. What equipment we could sell generated another $31,000. The community did not have the resources and people or capital to protect itself from this potential harm. For those reasons, a community such as Seymour must look outside itself to solve its problems.

Thank you.

Mr. LEVITAS. Thank you very much, Mr. Vance. Most illuminating.

Mayor Bailey.

Mr. BAILEY. Thank you, Mr. Chairman.

I must be the most ill-prepared of everyone in the room. I sense from the activity going on behind me, obviously that counsel is well prepared, my two cohorts have written testimony, and mine is to be rather off the cuff, as it were.

The city of Seymour appreciates the opportunity to come before you all. We appreciate your counsels coming into our community and, quite frankly, presenting us with an opportunity to share our concerns, and in retrospect, our anguish at what happened. And I think prior to any criticisms that I might have, I would like to establish that point.

I assume that the chair that Mr. Snyder is absent from is Congressman Gene Snyder from Kentucky. Being from Kentucky, Congressman Snyder and I then would share a trait I believe of being one that calls it like he sees it. And, in doing so, and not being a graduate of law school or anything of that sort, I question sometimes whether statements that I may make may involve me in ongoing litigation, questions that you may answer me today—or ask me today that I shall answer. I am not sure what "slander" means, but I intend to answer them as best I can.

I would like to share with you a little bit about the personality of the community that sits adjacent to the pictures which you have here to my left. Seymour, IN has a population of 15,000 people in southern Indiana. Our chamber of commerce uses as its motto: "Crossroads of Southern Indiana." We find ourselves and consider ourselves to be in the heartland of America.

We are a predominantly German Lutheran community. We are a community of hard workers. We have our fair share of professional and doctoral type people. But primarily our labor force is one of high school graduates and college graduates. We are not tremendously technically trained. We have a few who are chemical engineers. We have a few, such as Mr. Vance, who eke out some type of expertise in criminal law. We have others, such as Mrs. Smith, who are what we might call in an urban society, activist.

They involve themselves in the community. We are very fortunate to have them. But by and large, we are lay people—no more, no less.

The picture to my left, and in the verbal picture which Judy so eloquently painted for you, in terms of stench, in terms of odor, discoloration, dwarfed corn, et cetera, really doesn't give justice to the 24-hour-a-day overall and overwhelming opinion which we have had and continue to have of Seymour Recycling.

I might digress just a moment and say that it seemed to me that one of the things that kicked the thing off was almost an alarmist concern by the citizenry following a meeting held by the local chamber—the local League of Women Voters, at which at that time Mr. William Kovacks, the then owner of Seymour Recycling, appeared, and, quite frankly, overwhelmed us with his polysyllabic words, his technical jargon, his flippant use of chemical law as it related to the State board of health, the EPA and so forth.

In going back to the fact that we are basically lay people, I suppose we suppose we bought a pig in a poke, as it were. Not knowing what we had, we assumed our State and county officials were looking out for our best interests. I personally believe they were doing the best they could with what they had to work with.

I feel later on, I think, questions may get into the part about why we didn't ask for more assistance. It seemed to us at that time that the only way to get anything done was to be somewhat as obnoxious, as it were, as the odors that were coming from the site.

Toward that end, a letter was written, prior to the meeting which Mrs. Smith and Mr. Vance have alluded to, when O.H. Materials appeared on the scene the next morning. That letter was signed on behalf of Mr. Vance. Mr. Vance at that time was, and still is, my personal attorney and my business' attorney. We have a personal relationship. Bill, being a good friend of mine, came over to my home one evening, having received a——

Mr. Levitas. Let me interrupt you right there, because I want you to feel free to consult with Mr. Vance at any time, and Mr. Vance to advise Mr. Bailey at any time, with respect to the concern that you had mentioned earlier about the comments that you might make. So don't have any hesitancy; if you have some question you want to ask your attorney or Mr. Vance, if you want to advise him, feel perfectly free to do so.

Mr. Bailey. I appreciate that comment, Mr. Chairman. Perhaps you can, but I doubt many others in the room can imagine the phone calls that I have received in the last week or so once it was known that I was coming up here. Perhaps my reputation for bluntness preceded me. And several counsels contacted me asking me to guard and couch my wording very carefully.

So I appreciate your concern. And Bill has been told of that.

Mr. Molinari. Excuse me. May I interrupt you?

Mr. Levitas. Mr. Molinari.

Mr. Molinari. Mr. Chairman, I would like to ask the mayor if he would briefly consult with Mr. Vance.

If you received phone calls, I would like to get on the record who called you. Now, it would seem to me that that kind of information would not put you in any position to be sued. However, I don't want to act as your attorney. You have an attorney alongside of you.

Mr. Vance, I would think it would be important to us to find out where this pressure is coming from, because this is an ongoing investigation. I am shocked to learn that at this late date, that the mayor—who is a new mayor, really, not with a great deal of familiarity with the site has received this kind of phone calls. It would be very interesting for our subcommittee to have the parties that have contacted you, identified.

Mr. **Bailey**. Mr. Levitas, the attorney, the firm of Bingham, Summers, Welch & Spellman, who are the attorneys for our local aviation board where the site sits, and I believe Mr. Prolman has been in contact with counsel from their office also. In fact, I think Mr. Prolman was in contact with one of their attorneys very recently concerning possible appearance here, whatever.

The other was an attorney which at that time was in our community, is one of the now-sued generators which Mr. Levitas alluded to in his introduction, at that time was not sued. And they were in town on a technical factfinding trip. They are prepared, at that time were prepared, I consider it very graciously, to be willing to look at the possibility of extending city water from the site to the residential subdivision known as Snyde Acres, which sets at the southeast corner of the picture some three-eighths of a mile from the site.

At that time, they wanted to know some technical information about our wastewater treatment plant, a plan which they had developed needed some assistance locally for treatment. And they wanted to know what our capacity was.

After they were sued, the counsel for one of the firms contacted me just to let me know that he was aware we were coming up and that they had decided perhaps it was in their corporate best interest to back up and reconsider their proposal, their offer, as it were. So those are the firms that I was speaking of that had contacted me.

Mr. **Molinari**. Is there anybody that suggested to you that perhaps you shouldn't make the trip to testify here today?

Mr. **Bailey**. No, sir; I wouldn't say so directly like that. You know, if someone tried to allude to that fact——

Mr. **Molinari**. Did anybody try to allude to that indirectly?

Mr. **Bailey**. I wouldn't say so. I think it was more a caution rather than don't go.

Mr. **Levitas**. I did not get the identification of the second attorney or firm, the one that had made the offer about considering the water supply.

Mr. **Bailey**. All right. The gentleman who contacted me and brought two engineers with him, I don't remember the engineer's name, but the attorney was Mr. Brent Gilhoussen, who, I believe, is counsel for Monsanto. Monsanto seemed to be the spokes-organization for a consortium which I assume makes up the 50 now sued generators. I, quite frankly, thought there were more than that represented, but I guess that 50 have been sued, so perhaps those are the 50 with the biggest financial statements.

If I might get back to my testimony at that time. The way that we determined might be quickest to get some immediate action, a one-page letter was addressed concerning the problem which we felt as lay citizens we had. And accompanying the letter was a rather complete listing of everyone that had received the letter.

Quite frankly, the attempt was sensationalism, and we admit to that.

However, I think that in retrospect, it may have been the thing that kicked this thing off dead center, by embarrassment, or whatever. For instance, if we invited Indianapolis ABC affiliate, then we let the CBS affiliate know that ABC had been invited. If we invited one U.S. Senator's office, we let the other U.S. Senator's office know that he had been invited.

The meeting was held at the Holiday Inn. And this is the morning after the event which Mr. Vance alluded to where he was out personally trying to move barrels and stop the smoking. Following that, O.H. Materials arrived, somewhat picturesquely, as the people were out at the site as if the cavalry were coming in with their semis and whatnot. For a moment, we felt somewhat at ease. O.H. Materials did the thing which they were contracted to do, I suppose, and then left.

Once again, we were left holding the bag. That is a brief thumbnail sketch of the personality of Seymour, IN, of its problem, of its concerns, and of its people.

If you have any questions now that we can break down in this reformalized or informalized presentation, we will be happy to answer them.

Mr. LEVITAS. Thank you very much, mayor, and all three of you. Yes; we do have, I know, some questions, and hope that they will shed some additional light on this. Again, the two photographs that are enlarged over to my right. Would you orient those with respect to the community that Ms. Smith identified as being in the vicinity?

Mr. BAILEY. Yes, sir; if you were to assume that the top of those pictures is facing south, then the Snyde Acres residential area, which is outside the city limits of Seymour, would be to the bottom right-hand corner, which would be to the northwest. The community itself lies to the left of the picture, both due east and northeast. Prevailing winds come from the southwest to the northeast.

So that they would pass over the picture, as it were, from the upper right-hand corner to the lower left-hand corner, and the community of Seymour will sit off to the lower left-hand corner. The Freeman Field Industrial Park lies immediately to the east of this picture and to the southeast of the picture, which would be immediately off to the left and to the upper left-hand corner of the picture.

The nearest industry is probably immediately to the left of this site and is probably geographically as close as the nearest home off to the lower right-hand corner.

Mr. LEVITAS. And how many people live in that residential community?

Mr. BAILEY. Mr. Levitas, I believe that there are approximately 100 households in the immediate area known as the Snyde Acres Subdivision. Now, interspersed between Snyde Acres and the site are, I would guess, another 25 to 30 homes. Immediately off to the upper—well, off to the right, but at about the 2 o'clock position, is the Elks Country Club, the largest country club in Seymour, dining facilities and so forth. They draw their water from a deep well which is off to the right of the site. Membership of the Elks Club is probably some 400 to 450 members.

There is one other business there which would also be off to the right, a meatpacking plant, a slaughterhouse, and they do meatpacking for business.

Mr. **Levitas**. I am going to hand over to you, Mayor, some photographs, aerial photographs. And if you would just identify them for us, because we do want to make reference to them later. The ones toward the back of that stack at the bottom have some dates marked on them that you will notice on the margin. I think the top two do not have dates.

But one of the things that I observe is that there is an increasing number of barrels. In fact, when I first looked at that photograph, I thought it was an aerial photograph of a large city. It was only when I looked more closely that those were not houses down there, those were barrels.

Now if you would, as you go through, take the pen, if you need one, and just mark them 1, 2, 3, 4, 5, if you need to make reference to any particular one.

Mr. **Bailey**. In handing me these pictures, exactly what are you wanting me to identify, that, yes, this is the site, or what?

Mr. **Levitas**. Yes; just to be able to identify that as the site. While you are doing that, let me ask Ms. Smith, just to make sure I have got the timeframe correct. I believe there were some actions taken as a result of EPA bringing a lawsuit of some sort under the Clean Water Act, to bring about some cleanup around the period of November 1979. Do you recall that particular situation? Did you get any information on that?

Mrs. **Smith**. No; I don't recall any cleanup taking place in 1979 because at that time, it was still operating and the only time I recall anyone coming in to do any cleanup was in March 1980 when the site had been closed in February and then in March, O.H. Materials came in.

Mr. **Levitas**. That is what I was trying to get at. O.H. Materials came in in March 1980 and so therefore the conditions that are displayed in the photograph to the right, November 18, 1979, as compared to those that are shown November 6, 1980, would reflect whatever it was that O.H. Materials did by way of preliminary cleanup?

Mrs. **Smith**. I think one of the main concerns or one of the main things they did when they came in was I think you can see there to make roadways because there were fires out there off and on. The local fire department had to go out and try to put fires out and trying to get in there, as you can see in the 1979 photo when it was still operating, was really very difficult to get back in there to even try to put something out.

So one of the big things that they did was to make roadways so that the firetrucks could get back in there if they needed to.

Mr. **Levitas**. Also, there appears to be around the perimeter of the site, a road or a burn, or something of that sort that does not appear on the earlier photograph.

Mrs. **Smith**. I believe that was a dike that they put in to keep the ground water from running off the site.

Mr. **Bailey**. I might also say that the top of that picture, from the elevation standpoint, is higher than the bottom of that picture so rainwater falling in the field immediately to the north runs downhill, which is the site, and then the creek that I think was used as the reasoning for the original funding of O.H. Materials to come in is off to the lower right-hand corner of the site.

Mr. **Levitas**. Congressman Molinari has a question.

Mr. **Molinari**. The creek you are identifying is in the lower right-hand corner?

Mr. **Bailey**. Yes, sir; in fact, it is the upper right-hand corner. That is the dark line that you see going off to the upper right-hand corner there.

Mr. **Molinari**. It would flow away in that direction?

Mr. **Bailey**. Yes, sir. I am sorry. Uphill would be to your left, Mr. Molinari.

Mr. **Levitas**. You said earlier that the top was the south.

Mr. **Bailey**. I was incorrect. The top is to the left of that picture.

Mr. **Molinari**. Could you describe the bottom of the picture here, compared to the 1979 photo?

Mr. **Bailey**. No, sir. I personally do not know.

Mr. **Levitas**. Let me ask you, Mrs. Smith, why do you believe the State and local officials with whom you were dealing later on—when I say you, I mean the League of Women Voters in general and other citizens—were apparently not willing to help to give you the assistance that you were asking for?

Mrs. **Smith**. Well, I think there is probably a natural reluctance for anyone who faces something that massive to probably not want to deal with it because it was so huge. I don't think anyone knew how to deal with it and there was just a lot of reluctance, probably, to admit really what was there. And I am sure as, you also mentioned before, you have heard the story many times and from my own reading of other accounts in other communities, I don't think that is unusual.

Mr. **Levitas**. No; it is not unfortunately and we recently had some witnesses from Times Beach, MO, and their stories are not too dissimilar.

Did I understand you to say that the State officials refused to provide the league with information about the sites upon your original contact or were they forthcoming when you made your inquiry?

Mrs. **Smith**. We had to make a visit to the State board of health in Indianapolis and then they did let us copy things out of the files.

Mr. **Levitas**. Had you made a request prior to that time?

Mrs. **Smith**. Yes; off and on we had, you know, asked for different pieces of material or we really didn't know what we had there, quite frankly, and I don't think they were real honest with us. Probably due to the fact that I think they don't want the public to get hysterical about this kind of thing and I would imagine that probably has a lot to do with it.

Mr. **Levitas**. Did I understand you to say that they also blocked your efforts to have a press tour of the site which you were trying to use to bring about public attention in order to motivate some cooperation?

Mrs. Smith. They didn't really try to block it. I don't think they were very happy about it. I think they preferred that we not do that.

Mr. Levitas. Did they work with you in arranging for public information to be made available?

Mrs. Smith. No, I don't think they did.

Mr. Levitas. Again, what was the nature of the response of the former mayor of Seymour when this matter was brought to his attention? I gather from your statement that there was one of defensiveness of the site rather than responding to the concerns that the citizens had.

Mrs. Smith. Yes, I think that would be definitely true.

Mr. Levitas. Again, do you have any particular understanding of why that would be the case?

Mrs. Smith. Well, I suppose again it goes back to having looked at the State board of health's files in realizing that those copies had been available to the local county health board. I assumed there were people in the community and probably the mayor who were more knowledgeable about the site than they had ever admitted and I think the mayor particularly was knowledgeable about the bacteria that was killed at the sewer plant which he never mentioned.

So I think he was aware somewhat of the problems out there, but there again, I don't think he knew what to do about it and it was easier to accept the belief that if it were continuing to operate it would clean itself up.

Mr. Levitas. Mayor Bailey, do you have any explanation for that?

Mr. Bailey. As to the former mayor's reluctance?

Mr. Levitas. Yes.

Mr. Bailey. No, sir, not really. If one remembers that his background was an engineer, perhaps he, in his own mind, felt that honestly that there was no concern. That would not be in defense of him, but perhaps I can attempt to explain what I see as his reasoning.

Mr. Levitas. Mr. Vance, who was the EPA official or who were the EPA officials, either by name or position, that you first met with after you were appointed receiver?

Mr. Vance. Ralph Koons.

Mr. Levitas. And do you know what his position is?

Mr. Vance. He was the on-site coordinator when the containment operation began. I don't know what his position was at the time I first met him because that was prior to that time.

Mr. Levitas. What was your relationship with him? Was it friendly, cooperative?

Mr. Vance. Well, I had thought it was pretty good until I picked up the paper one evening and read an article where he had accused me of being the reason that the site wasn't cleaned up. He was quoted as saying that if I had cooperated with him, that he could have had all the drums out of there in very short order by having companies come in and pick up their own drums.

I read that in the paper that evening. I went to his room at the motel he was staying at and had a vigorous discussion with him concerning that.

Mr. LEVITAS. What did he have to say about that?

Mr. VANCE. He indicated to me that he had been misquoted in the paper but nevertheless what he was suggesting to me was simply ludicrous to have generators come in on their own or hire their own contractors and sort out through that mess over there and find their drums and take their drums out of there without any idea what is in them, without any assurance that a drum that carries a particular company's logo has in it anything that that company sent to the site anyway.

And what was going to happen, I wondered, when you started moving those things around in the fragile condition they were in. If you have one company come in to find theirs, the site was so disorganized, if you go in the place, you would find the drums had painted on them a code number like S-723. That code number corresponded to a logbook and the logbook had what was supposed to have been in the drums but you never really wanted to trust that. But when a truck would come in to the site, it appears, wherever there was a spot that is where they unloaded and that is why you would have situations like you did where we had acids right next to solvents.

It seemed to me to be foolhardy to think that we could have people going in there moving and shuffling drums around to find some and pulling them out but after that incident, I felt like my relationship with Mr. Koons was, shall we say, very cold.

Mr. LEVITAS. You made reference to the fact that you had all these drums in there and that it wasn't clear who owned which ones or what was in it or whether the logo on the outside of the drum still represented any relationship to the firm. Could you elaborate on that a little bit further.

Mr. VANCE. Yes; you see, the operation of the plant was continuing at some level. Obviously they were taking in a lot more material than they were processing through their plant.

Well, they were using the drums. If the company would send material in, they would take the drums. If they were going to recycle the material in the drums, they would save the drums and then use them to put other waste or byproducts of their own operation in them and consequently you had no confidence. When you found a drum that had a number on it, you had no confidence that that corresponded to what was supposed to have been in that drum when it came off the site because the drums were just reused all the time and that is why you would know, for example, if ABC Co. comes in and they find an ABC drum, there is no assurance that what is in it had anything to do with ABC.

Mr. LEVITAS. Why were you appointed receiver?

Mrs. Smith said that the company went bankrupt and you were appointed receiver as a result of that. Maybe from a legal point of view, you could enlighten us a little bit.

Mr. VANCE. I think maybe I objected in that judge's court once too often might be the reason.

The attorney general's office in the lawsuit that culminated in that had asked that a receiver be appointed because the management was not accomplishing the purposes of the agreed order that had been entered into. So the receivership was instituted and had two objectives. I was ordered, No. 1, to clean up the site which was kind of difficult to do with no assets; and then I was ordered to function with the other receiver and try to marshal what efforts were there. That is why it was done.

Mr. LEVITAS. Was the company functioning at the time that you were appointed as receiver?

Mr. VANCE. I would say no. There were people out there up to within 2 or 3 days of when the judge ordered the gates locked but I don't believe it was functioning. My opinion is that what was going on, I think that the management of the company realized this was going to happen and I think that an effort was made to strip the plant of any valuable pieces of equipment or things like that. I think that is what was going on in the last phases.

Mr. LEVITAS. Now, Mrs. Smith, you mentioned a Mr. Kovacs. I think it was Mayor Bailey who mentioned a meeting with Mr. Kovacs who represented the ownership of the facility at the time he came and spoke to you at the public hearing that the League of Women Voters had arranged.

Did you know at that time what company Mr. Kovacs was affiliated with other than the site at Seymour, Mr. Mayor?

Mr. BAILEY. No; I did not at that time.

Mr. MOLINARI. Did you, Mrs. Smith?

Mrs. SMITH. No; it was later that we found out that he also had a company operating in Hamilton, OH.

Mr. LEVITAS. And what was the name of that company?

Mrs. SMITH. Chem-Dyne.

Mr. LEVITAS. And where were they operating?

Mrs. SMITH. Hamilton, OH.

Mr. LEVITAS. And did you ultimately learn that they were transferring toxics and waste materials from the Chem-Dyne plant in Hamilton, OH, over to the Seymour site?

Mrs. SMITH. I have no proof that they were. I would strongly suspect that they were, yes.

Mr. LEVITAS. Did you have any information to that effect, Mr. Vance?

Mr. VANCE. I couldn't prove that, but I have no doubt in my mind that that is what happened. I recall being told and I don't recall who told me. I am sure it was one of the former employees at the site who indicated to me at one time that if they anticipated that an inspection might be coming at either one of their plants they would load the worst stuff they had on plants and just put it on the highway, store it on the roads driving it back and forth between Hamilton and Seymour.

Mr. LEVITAS. So they were keeping the hazardous materials in transit.

You mentioned that you felt the initial effort that was made by EPA for cleanup was essentially a cosmetic cleanup. I think that was the term you used.

Are you aware of how much the contract was for that cosmetic cleanup?

Mr. VANCE. I knew at the time, but I don't recall.

Mr. LEVITAS. Does $780,000 sound like the price of cosmetics for you?

Mr. VANCE. That sounds like what was paid for it.

Mr. LEVITAS. I have a number of other questions, but I know that my colleagues do, as well. So at this time I will recognize the gentleman from New York.

Mr. MOLINARI. Thank you, Mr. Chairman.

Looking again at those two blown-up photographs, they are approximately a year apart. At first impression, one would believe that the 1980 photo shows a substantial amount of cleanup.

Now I know that you testified before, Mrs. Smith, that part of what they were doing there was to provide access roads for fire and emergency vehicles.

Can you tell us, whether, in fact, a lot of the materials that are seen in the picture on the right had been removed, or were they stacked in a different area? It is hard to visualize from the photographs.

Is anyone sitting at the table there able to tell us whether barrels or other materials were removed between those two dates?

Mr. VANCE. Yes; I can respond to that.

I don't think there was a substantial amount of material removed. You have to remember that some of the drums that were on this site had been there for years. There were an awful lot of empty drums that had already rusted through and the contents had already been buried in the earth. Neither one of those photographs——

Mr. MOLINARI. Before you leave that, what happened to those empty drums?

Mr. VANCE. That is going to account for a sizable reduction in what you see.

Neither one of those photographs will show you the large scrap pile that was on the site during that first containment operation. These drums were pulled out—the empty ones were pulled out and heaped into an enormous mountain of metal, and then that was taken away, and that alone reduced the number of the drums considerably.

Mr. MOLINARI. But as far as you know those that contained liquid materials of whatever kind, were not substantially eliminated?

Mr. VANCE. I don't believe so.

Mr. BAILEY. I would also point out that if you looked at the upper right-hand corners of the site, you notice that the 1980 picture shows drums located on site in the upper right-hand corner. The 1979 picture does not.

Mr. MOLINARI. There are other locations. On the left-hand photo about a third of the way up, there is a rather heavy concentration of drums that does not appear in the same area in the right-hand photo. It is hard to visualize for someone not familiar with the site what the difference might have been.

Let me get to my next question. The pictures were provided to us by the Environmental Protection Agency. I am told that is correct. The date on the top of the map, July 1983, purports to show the condition of the site on that date. Yet at the bottom of the photo there is a legend saying "Photo Date: 10/27/83," indicating a picture that was taken very recently.

Would any of you be able to identify whether the photo represents the condition of the site on October 27, 1983 or July 1983?

Mr. **Bailey**. I would say that I doubt that that is July of 1983 because I think it is in June 1983 when I had been appointed mayor—May 4, 1983—that I toured the site. There is an observation tower as the road comes in from the upper right-hand corner. An observation tower was erected just to the right of where your finger was, somewhere in there. And in June 1983, barrel crushing was still occurring. And the material which appears to be lighter and white at the bottom of the site there by your hand, I assume that that is the fill material that is being brought in.

My understanding of the surface cleanup was that it also included 1 foot of topsoil, and the soil that was removed was to be replaced by clean soil—and I think it is clay. And I think that that lighter picture reflects the clay that has been put on. And I know that that didn't really start until probably late September. As they finished up with the barrels, then they moved right into the next phase, which was replacing topsoil and putting clay on there.

I doubt that is July. I think that is more apt to be October.

Mr. **Molinari**. Is there anybody here from EPA that can shed some light on this picture?

Mr. **Gumbler**. That picture was taken October 1983. That must be a mistake in graphics.

Mr. **Molinari**. I appreciate your answer. Could we have your name?

Mr. **Gumbler**. My name is Christopher Gumbler, G-u-m-b-l-e-r. I am an environmental engineer with the Office of Waste Programs Enforcement.

Mr. **Molinari**. Thank you very much.

Mr. Vance, have you been paid anything since becoming the referee in bankruptcy?

Mr. **Vance**. Yes.

Mr. **Molinari**. Out of those moneys that you talked about before?

Mr. **Vance**. Yes.

Mr. **Molinari**. Mr. Vance, other than the two bank accounts, did you have occasion to examine the records of Seymour Recycling to see whether there were withdrawals from the accounts shortly before you were appointed or in anticipation of your appointment?

Mr. **Vance**. No.

The records, when we went in to the site—some of those pictures will show you trailers that served as office facilities. The first time I went into those trailers, there were boxes and files just scattered everywhere.

Mr. **Molinari**. The first time when you were trustee?

Mr. **Vance**. Right.

We were never able to put together the records to make any sense out of them.

Mr. **Molinari**. But you had access to whatever records were there?

Mr. **Vance**. Right.

Mr. **Molinari**. Did there ever come a time when you suspicioned that records were missing?

Mr. **Vance**. Well, I don't know. I recall one incident. The first time I was in there, I went through a filing cabinet and there were tabs in the filing cabinet that separated files, and in the normal situation you find the cabinet to be—a manila file folder in it. I remember going through the file folder and seeing a tab that said "Spin-Off" on the tab, and there was no file in it. I remember that because the word "Spin-Off" didn't mean anything to me, and I couldn't understand why that was there. Everything else had names of companies that maybe they had been doing business with and things like that.

It seems to me it was only 2 or 3 days later I went back out to the site and I went through and looked in that filing cabinet, and that tab was gone. The site had been locked up. But it seemed pretty clear to me someone had been in there.

Mr. MOLINARI. Other than the tab, there was no accompanying file on the subject.

Mr. VANCE. That is correct; there wasn't. But then the second time, the tab was gone.

Mr. MOLINARI. Is it possible that other documents might have been taken out?

Mr. VANCE. It is certainly possible.

Mr. MOLINARI. There was some testimony here today about an offer to provide piped water service to the residents of Snyde Acres. Who made that offer originally?

Mr. BAILEY. Originally—our water company is not municipally owned; it is a private business. And once we began to see the reflection of the picture which you just held up, the residents of Snyde Acres became concerned that the citizenry of Seymour, who outnumbered them some 15,000 to 300, might become somewhat lackadaisical in their concern.

Our immediate concern was taken care of—that would be the surface cleanup. The shallow aquifer over the site may go in the direction—I believe there is documentation to show a plume of pollution exists which goes away from the perimeter of the site, but it goes northwest of the site. Now, our community lies to the east, and so I am sure the citizenry were concerned.

The meeting was held in the high school cafeteria at which time the independently-owned water company said that they would be willing to provide the water service out to the site. They had broken the costs down and it came to roughly $200,000 to extend water to those residents, and the 100 households would have to come up with approximately $2,000 each. And they were asked to caucus, as it were, and decide if they had the money to do so.

Quite frankly, they did not have that type of funding, so at that time the local executive vice president of our Chamber of Commerce was asked by them would he serve as their spokesperson and would he contact an attorney in Indianapolis—whose name, I believe, is Doug Butler—and ask Mr. Butler would he act as counsel for them and would he petition Judge Steckler to ask that a certain portion of the funds already collected be designated for the immediate need of extension of water service on their behalf.

I was mayor at that time, and the city attorney tried to assist them, and our Indiana State Board of Accountants said, "You can't do that. These people lie outside your city limits, and you can't expend any time, money or effort to assist them." My argument was, yes, they are outside our city limits, but they do fall within our 2-mile jurisdiction of our Planning Commission, as it relates to dwellings, structure, sewers, and water.

I recall Mr. Henry Snyder, who developed Snyde Acres, when I sat on the Planning Commission, came in once and made the very strong argument that the residents really didn't want the city water at that time out there. There was good water to be had. This is prior to the events of O.H. Materials ever coming in. This is immediately prior to people becoming alarmed at dwarfed corn, cows who had bald spots on their backs, dairy cattle that perhaps their milk production seemed to fall off, that type of thing, in the span of then the 7, 8, 9 years that we are talking about the same citizens had perhaps moved. There is documentation of one physician in town who at that time lived in Snyde Acres and was willing to sell his home at a loss to be moved out of Snyde Acres.

So the residents met with the water company. The water company made their proposal and made the offer good through the end of this year. They had contractual prices on pipe and fittings and so forth.

Judge Steckler was to have received yesterday all of the input that he needed to make his decisions as to whether or not he would dedicate those funds.

Mr. Molinari. Was there testing of the ground water supplies that showed contamination?

Mr. Bailey. Yes—at Snyde Acres or adjacent to the site?

Mr. Molinari. Well, either.

Mr. Bailey. There are test wells which still exist to the immediate right of those pictures. There are five test wells which I believe that EPA still has in the ground monitoring. Prior to that, there is ongoing testing of the wells at Snyde Acres at residents' homes.

We have a genuine concern there. Originally, turnaround time for testing was 30 days. Now it is 90 days. I am sure if I were in Snyde Acres I would be somewhat selfish in my concern that if the problem was that important, then why is it suddenly, 2 or 3 years later, a decreased and diminished concern? It seems rather obvious, even to a layman, that the pollution in the ground has only moved forward. Then why not continue the 30-day turnaround?

It is now extended out to 90 days. Somewhere, to a State agency or EPA or someone, it has become a diminished concern. Certainly not to the residents of Snyde Acres.

Mr. Molinari. Let's talk about that for a moment. We are going to hear from some of these folks tomorrow, and I think we will be asking the hard questions that should be asked.

How about the State? Did the State come in and conduct any tests of the ground water?

Mr. Bailey. My understanding is that, yes, they did. Early on, the airport and the city and these people were working with a county health officer. I think it is fair to assume that a county health officer doesn't have the education that someone of higher authority might have, and it was probably very difficult for him to know people in Indianapolis as to how to short-circuit the system, as it were, to get results back more quickly.

The turnaround time of the State health board then increased once it became public that I think even the Congress recognized that this was one of the three worst sites in the United States. The

State of Indiana became very much involved, and we saw that as a result of our elected officials becoming involved. I wouldn't want to say that they piggy-backed on the publicity of it; however, it became very easy to get in touch with some of their staff members after the meeting that was held at the Holiday Inn when the news media was there.

Mr. MOLINARI. Mrs. Smith, you have been involved in this for a long period of time. Did you ever have occasion to see any of the test results? Did the State share those results with you?

Mrs. SMITH. When we went to the State board of health and looked in the files, we saw some testing there. I think there was a big question as to the quality of their laboratory equipment and so forth at that time as to really how good those tests results might have been. Then EPA did conduct a ground water study.

Mr. MOLINARI. When?

Mrs. SMITH. Let's see. I think 1981 or 1982. I am not real sure, but there was one conducted at that time which did show pollution in the aquifers.

Mr. MOLINARI. Do you know what kind of contamination? Did they identify the substances?

Mrs. SMITH. Yes. I remember seeing phenol particularly in one. There were some others identified, but I just don't recall what they are right now.

Mr. MOLINARI. Were there any recommendations that accompanied those results by EPA? For example, that bottled water should be consumed?

Mrs. SMITH. Not that I saw.

Mr. MOLINARI. Were you led to believe that it was safe to continue drinking the water after they did these test results?

Mrs. SMITH. I don't think anyone who lives out there close to the site and who uses well water has ever been told by any officials not to drink the water.

Mr. MOLINARI. Are they drinking the water now?

Mrs. SMITH. I would guess that some of them are. I know a lot of people are drinking bottled water out there right now.

Mr. MOLINARI. The reason I asked that is because our experience is that generally when people's concerns are aroused that they switch to bottled water, and sometimes even before public officials are alarmed. Sometimes they are the best experts.

Let me ask all of you this: When is the last time you had a meeting with the State officials?

Mrs. SMITH. It probably was last fall, I believe.

Mr. MOLINARI. Are you aware that recently the State has received some new and rather sophisticated testing equipment?

Mrs. SMITH. I was told shortly, I think, after we got involved in this that they received some grant money, I believe from EPA, and had bought some better equipment. But I never saw it and don't know anything about it—which would probably have been a couple of years ago.

Mr. MOLINARI. And you don't know whether that equipment has ever been used to test it?

Mrs. SMITH. No, I don't.

Mr. MOLINARI. Do you know if anybody has conducted what I call, for lack of a better term, a population health survey in the area?

Mrs. SMITH. The only thing I am aware of is what the Center for Disease Control conducted.

Mr. MOLINARI. That was for cancer, you said?

Mrs. SMITH. Yes; that was for cancer only, and it was only done there in the immediate site. It wasn't the community as a whole. And that was, I felt, sort of limited, yes.

Mr. MOLINARI. We heard the mayor describe some of the problems that the animals were experiencing.

In discussions with those living near the site—whichever side is not so important—does there seem to be an increase in complaints similar to fatigue, nausea, dizziness, loss of hair, severe rashes, or urinary tract infections?

Mrs. SMITH. The only things that I really have heard a lot, I recall particularly one of the residents of the area—his son runs track, so he did a lot of running in the area, and then his son went away to college and he said it was amazing the difference in his abilities to breathe. He had some respiratory problems which he had had when he ran adjacent to the site, which I felt certainly was significant. And a lot of the residents, of course, when the site was still operating and the incinerator still going, were complaining a lot of watery eyes and that sort of thing.

Mr. MOLINARI. That is the one term that I didn't use—respiratory problems—which I should have.

How about those problems, since they are usually a key indicator?

Mrs. SMITH. You know, it is funny. A lot of times I think we blame our respiratory problems on the atmospheric conditions. We sort of live in a river valley, and I think sometimes—and I have wondered myself—how much of that has been masked over by the area we live in? I don't know.

Mr. MOLINARI. Mrs. Smith, you talked about an exploding barrel that created a gigantic gray smoke ring, on the first page of your testimony.

Can you tell me when that was?

Mrs. SMITH. That was probably in the summer of 1978, I think.

Mr. MOLINARI. On page 2 of your testimony, you talk about a public meeting with SRC and Senator Lugar's representatives and that the State board of health refused to allow anyone to participate since litigation was in process. Then you say "We learned that area residents were very dissatisfied with the operation of the incinerator." Can you describe why and how they expressed that dissatisfaction?

Mrs. SMITH. Well, the league's main goal is public education, so we did this to educate ourselves and the public about the facility and how it operated and a lot of the area residents came to this public meeting, and that is when we really began to see their great concerns about this incinerator and how it operated and so forth, and they were very much concerned about what was coming out of the smokestack and also I think about the sludges and what was happening to those kinds of things and whether the scrubbers, I believe, were ever cleaned properly on the incinerator.

That all surfaced at this public meeting, these questions.

Mr. MOLINARI. Mr. Vance, the EPA emergency response official, the on scene coordinator, was initially dispatched to deal with the Seymour site in 1979 and 1980. According to the information that I received, he accused you, a State court appointed receiver, of obstructing Government efforts to clean up the site. Is that an actual fact?

Mr. VANCE. I think you might have been looking at something else when I commented on that earlier. That was when he indicated that if I had cooperated, he could have had all the generators coming in and picking up their own barrels and getting them out of there. The fact of the matter was that he never asked me for anything that I didn't cooperate with.

There were times when because of other regulations and all, and as the receiver of the corporation, permit applications and things had to be signed on anything at the site. I assumed that he had far more expertise than I in that situation and I, as I mentioned earlier, picked up the newspaper one night and found out I had been accused of that, and I was astonished because I couldn't imagine anything that he had ever requested that I cooperate with that I hadn't done.

Mr. MOLINARI. You moved some barrels one time there you testified?

Mr. VANCE. Yes.

Mr. MOLINARI. Why did you move those barrels?

Mr. VANCE. Well, I was in court that afternoon. It was a Friday afternoon that a State official had been down there to check on something and found some smoking barrels. I was in Scottsburg, a small town 15 miles from Seymour, and I was called to get back. By the time I got back there, there was a situation where there were drums of acid that had eaten through those drums and that acid was eating through drums of solvent and beginning to react with some solvent.

These had been stacked too deep right up against each other on a cement pad that if you go in the main gate to the side on your left it is about in the center of the site. That is another concerning thing about the center of the site. We were afraid there might be a fire or explosion, and we still didn't have any idea what we had. So there were several of us that had to just move the drums to get the solvents away from the acids, and we were out there until midnight that Friday night doing it.

Mr. MOLINARI. You have been to the site quite often, I take it, Mr. Vance?

Mr. VANCE. Yes, not as often lately. In fact, when I was first appointed, I was out there 7 or 8 hours a day.

Mr. MOLINARI. I have had the experience of standing on a site similar to this one where the ground was spongy and just from the weight of my feet pressing down, green chemical oozed upward. Have you any personal experiences of observing ground saturation?

Mr. VANCE. Oh, yes.

Mr. MOLINARI. Could you describe that for us?

Mr. VANCE. Well, there was a lagoon in the middle of the site. It seems that one of the most commonly used means of disposal of chemicals on this site was to open the drums and pour them into the ground. There was a lagoon dug in the center of the place that was just full of that.

I wish I had thought to bring them. I decided not to. I have an old pair of engineer's boots that I used to wear out there that I should have brought.

Mr. **Molinari**. Do they still have bottoms on them?

Mr. **Vance**. Yes, barely they do.

Mr. **Molinari**. I have thrown mine away.

Mr. **Vance**. My wife wouldn't let me have them anywhere other than—I keep them as a souvenir. I should throw them away because they still have the stench.

You described it very accurately. That has happened to me. You walk across the place and your foot goes down and it is green, sometimes red, sometimes multicolored pool that just comes up to greet you, and then you walk on and it is still there, and it actually goes back in.

Mr. **Molinari**. There were something like 100 holding tanks on this site at one time. Was there any evidence of leakage from those holding tanks?

Mr. **Vance**. Yes. We had two incidents that I can recall. In the back of the site, if you went in that front gate, the main gate to the site, and if you go straight to the back, there was a bunker, and I believe it was a 3,000-gallon tank there, not lined, that we discovered later had been toward the end used simply to pour acids into. Great mixtures of acids apparently were just dumped into that. I was out there one day and saw that the seals around the bottom valve had eaten out and that acid was just coming out of there.

We had one other that I can recall that we had leakage problems into. It seems that there was an awful lot of that done too, you have a big tank just dumping anything you can into it, and you don't care what the combination is.

Mr. **Molinari**. With respect to your observation of cleanup, could you describe for us the trucks that were there involved in the process? Could you identify them?

Mr. **Vance**. I am sorry, sir?

Mr. **Molinari**. The vehicles that came in either to take out the contents of these holding tanks or that were hauling away the barrels, did you have occasion to see who the hauler was?

Mr. **Vance**. No, sir, I don't recall noticing that.

Mr. **Molinari**. You didn't see any of that happening?

Mr. **Vance**. Yes, I saw some of that happening, but they just looked like trucks to me.

Mr. **Molinari**. I am talking about names. Whose trucks were they?

Mr. **Vance**. Initially it was O.H. Materials.

Mr. **Molinari**. In every case that you can recall?

Mr. **Vance**. They were called in two or three times. They were called in to do that initial containment, and then when we had that acid leak in that holding tank, they were called back to do something about that. I believe it was the same company that was contracted to build a filtering system for the plant, a charcoal filtering system to filter surface water that never worked, as I can recall.

The airport manager and his people would have to go out there on a daily or every-other-day basis and back flush the thing, and it just never worked.

Mr. MOLINARI. Of those who came to the site to cart away the materials purportedly in the cleanup process, other than O.H. Materials, who else can we identify? Is there anybody else?

Usually we find a subcontract with somebody else to bring in vehicles or help them in other ways.

Mr. VANCE. I don't recall during that phase seeing any vehicles other than O.H. Materials. There might have been some, but I don't recall.

Mr. MOLINARI. One last question.

Were there any tributaries here, any small creeks where chemicals could have seeped into and then been carried off to other waterways? I think you have mentioned there was a creek up in the upper right-hand corner.

Mr. VANCE. That creek ultimately empties into the White River.

Mr. MOLINARI. Where?

Mr. VANCE. I would hate to guess. It is 2 or 3 miles from the site.

Mr. BAILEY. There are two drainage ditches. One comes out of our community. It is called Von Fang Ditch. It is a storm water runoff ditch. It would run south of this site. The drainage ditch which you mentioned finally joins Von Fang Ditch. That is known as Hedy Run Ditch. I don't know where it came by the name Hedy Run, and I don't know whether it was put there by the people who plant the corn for field drainage. It was there as long as I have been aware of the site, which I suppose goes back to 1972 or 1973. Whether it was made more efficient, less efficient, dammed up, I don't know that.

Mr. MOLINARI. What I am trying to determine is these creeks they emptied out into the White River?

Mr. BAILEY. Yes.

Mr. MOLINARI. I have no further questions. I would just like to say, Mrs. Smith, that your testimony is one that could be used in not hundreds but perhaps thousands of cases in the country as an example of the kind of things that communities face, the frustrations that they face, their attempts to try to demonstrate that indeed there is a serious problem.

I am fighting such a problem in my own district. It has been almost 2 years and despite the pressures that we have brought, we have still not been able to get the key answers that the people are looking for. Is it safe to live there? Should I move? How do you answer that question?

Mrs. SMITH. I don't think you ever get those. I think you learn to live with it probably, and when you look around and read accounts of all this, I think the big question that comes to your mind is if I move, where do I move?

Mr. MOLINARI. Yes, that is a good question.

Well, I hope that in future weeks maybe we will make some small contribution. With Mr. Ruckelshaus at the helm in EPA, we may see some improvements. It is a problem we have got to give better attention to.

I thank you for your testimony.

Mr. LEVITAS. Thank you, Mr. Molinari, and I would just like to second your final comments. I expect the conclusion of our efforts in this matter will be to address those concerns very specifically in our findings and recommendations and legislative action and I expect that we will also be hearing from Mr. Ruckelshaus as we get to that point to be assured that that is the case.

I have a few other questions, not many, but I just want to cover a few things that I feel are important that we get into the record.

In the judge's memoranda opinion when he approved the consent order and there had been a period of time available for people to intervene, I believe you said, Mrs. Smith, that you were contacted the night before by EPA officials. Would you explain that a little bit?

Mrs. SMITH. Yes. They were going to have a hearing in the Federal court in Indianapolis about accepting this agreement with, I think it is, 24 generators to fund the cleanup of the site for $7.7 million. So the evening before that hearing, I had received a call from an EPA attorney asking me if I would come and appear before the judge as a citizen. I guess they didn't have very good representation from citizens or someone to speak to citizens' concerns before the judge.

Mr. LEVITAS. And had you considered doing that before you were called by the EPA?

Mrs. SMITH. No, I had not.

Mr. LEVITAS. You knew the hearing was going to be done?

Mrs. SMITH. Yes.

Mr. LEVITAS. And what did you decide to do?

Mrs. SMITH. I went. Our concerns, basically, of course, were whether they would go ahead and complete it under a subsurface cleanup. We were afraid they would clean the surface off and call it clean and let it all go. That was really probably my basic concern.

Mr. LEVITAS. Did you express that to the judge?

Mrs. SMITH. Oh, yes, I did, and the judge had the same concern also.

Mr. LEVITAS. Well, in his opinion on page 8 of the typewritten version of his memorandum, he makes this statement, and I quote, "No citizen of Seymour has objected to the entry of the decree."

Now, the reason I mention that is that there are some people who make reference to that language and to your appearance as one who had been in the forefront of this as, in effect, saying it must have been a good and fair deal or else you would have been objecting to it. The concerns that you expressed, of course, are not reflected by that statement in the opinion, and I think it is important that you address for the record precisely how you view that comment.

Mrs. SMITH. Well, there would be no way that I as a private citizen could make a judgment on whether it was a fair settlement with the generators or that kind of thing because I did not have the knowledge to even comment on that.

As I said, my basic concern was, of course, the cleanup, and I did feel that we needed to have those barrels off there.

Mr. LEVITAS. By cleanup, you mean of the ground water?

Mrs. **Smith**. Yes, right. The surface was cleaned up. I was concerned about the subsurface, but I guess I have felt that we needed those barrels off there so bad that you can maybe accept an agreement that you might not feel real good about in order to get that done.

Mr. **Levitas**. When did you receive the copy of the settlement agreement?

Mrs. **Smith**. I do not have a copy of the settlement agreement.

Mr. **Levitas**. The point I am trying to make is that I am not sure you were in a position really to object or not to object to that because you were contacted the night before. You never, I assume to this day, ever had in your hands a copy of that agreement. You don't know what other undertakings there were to be made. And, in fact, if you were told that there would be no ground water cleanup, I suppose you would be objecting to the whole shooting match, wouldn't you?

Mrs. **Smith**. Probably would have, yes. I don't feel that I was asked to speak to all of the concessions and so forth that were made with the agreement. I had no knowledge of that to even talk about that. The only thing I was asked to do was to come and speak as a citizen as to my concerns about the fire hazard basically.

Mr. **Levitas**. And you appeared before the judge, and you made a statement?

Mrs. **Smith**. Yes.

Mr. **Levitas**. Do you know whether a transcript was kept of the statement you made?

Mrs. **Smith**. I am pretty sure it was, yes.

Mr. **Levitas**. Let me ask you this, Mr. Vance.

After the court approved the consent decree, did you make any contact with State officials following the consent decree?

Mr. **Vance**. No; I had no contact with the State or Federal officials since that time.

Mr. **Levitas**. And Mayor Bailey, have you or Mrs. Smith, have you contacted the State officials?

Mr. **Bailey**. I have not, no.

Mrs. **Smith**. I don't believe I have either.

Mr. **Levitas**. Have you ever learned, any of you, from State or Federal officials whether the site, in fact, contained dangerous chemicals? Were you ever told?

Mr. **Bailey**. Dangerous? Again, not knowing the legal definition of dangerous, I would say the commonsense definition of dangerous is that, definitely.

Mr. **Levitas**. Well, I avoided on purpose the words "hazardous materials" or "toxic chemicals."

Mr. **Bailey**. You could use "deadly," and we feel comfortable with it.

Mr. **Levitas**. I was trying to get it to terms that most folks understand.

Mr. **Bailey**. Yes; if I might elaborate on that just a moment, it seems to me that therein is a problem which perhaps Mr. Molinari's people are finding in his district now. There seems to be a gray area of definitions involved in these: hazardous, dangerous, toxic, clean.

We are finding at this moment that the definition of the term "clean" is one of the most inhibiting factors that we have in the extension of city water to Snyde Acres. And so, Mr. Molinari, the biggest dictionary that your people can find in the library, I would encourage them to check out on a permanent basis.

Mr. MOLINARI. I appreciate that.

Would the gentleman yield?

Mr. LEVITAS. I would be happy to yield.

Mr. MOLINARI. I thank the gentleman for yielding.

I would like to offer one comment and one term back to you. It is one that you will find very interesting.

When they complete this phase II cleanup, I would like you to ask any of the health authorities, State or Federal, is it safe, and watch for the answer that you are going to get.

Mr. BAILEY. We are finding that one of the greatest thermometers that we have to that is the housing values.

Mr. MOLINARI. I have been accused myself, because of being out front, that of panicking some of the people into selling their homes and depressing their property values because of being out front on toxic waste disposal. In reality, all I am really trying to do is establish how bad the situation is.

I know there is a health problem. It is not a question of whether there is or not. To what extent or how serious it is, I have my own ideas. But obviously, as a nonexpert, I cannot express that with certainty.

Mr. BAILEY. That goes back to something Bill and I have shared before. We feel that our community was somewhat prostituted throughout the entire endeavor in that many times we knew nothing. We were kept in the dark as to whether it was safe, not safe. I would encourage also, Mr. Molinari, your constituency to demand information.

Mr. MOLINARI. We will be doing that, I assure you. I also believe that those served by yourself will be getting some answers because you certainly impress me as the type of person who is going to demand them and get them.

Mr. BAILEY. Thank you.

Mr. MOLINARI. I think your constituents are fortunate in having someone like yourself who is going to seek out those answers to a mighty difficult problem.

Mr. LEVITAS. Let me ask you this. What do you understand now, Mrs. Smith, as to the status of ground water cleanup?

Mrs. SMITH. The only information I have at this time is that as soon as they get the surface completely clean, which I think is now going to be January, I think, all the things that they are supposed to do on that, EPA is then going to contract out some studies of the site. I am assuming there is going to be more extensive ground water study and study for the possibility of buried materials on the site. Then where we go from there, I don't know.

Mr. LEVITAS. Do you know who is going to pay for this?

Mrs. SMITH. I am assuming EPA is going to.

Mr. LEVITAS. Don't bet on it.

I would like to know if any of you know, how much prior notice was the city given of the proposed court hearing on the settlement? Do you know, Mr. Vance?

Mr. VANCE. I have no idea.

Mr. LEVITAS. Mr. Bailey?

Mr. BAILEY. I don't know as to the number of days or weeks. I do recall that the—a meeting was held by I believe Mr. Rick Fields of the legal firm of Bingham, Summers, Welch and Spellman, attorneys for the insurance company which carries the insurance on the Freeman Field. At that meeting were the Seymour City council, mayor, city attorney, aviation commissioners, airport manager.

At that time my understanding is a rather lengthy presentation was given to those people. If I am not mistaken, that may be, this is a ballpark, 2 weeks or so prior to the time that council would be asked, city council would be asked, and mayor I assume is asked to sign off on that.

Mr. LEVITAS. Is there anybody here from that firm who would speak to that issue, give us the precise timeframe? I don't see anyone. We are going to try to tie those dates down, just for our purposes to complete the record.

In 1978, there was a State court order. I think this was before you were appointed as Receiver, Mr. Vance. And in a lawsuit that the Indiana Attorney General had filed against Seymour Recycling Corp., as I understand it, it was the purpose of that order at the time to reduce the number of drums that were on the site.

Now do you know, or was any contact made with the State officials after that order was entered to find out what was being done to implement it?

Ms. Smith, you might know the answer to that.

Mrs. SMITH. I don't recall.

Mr. LEVITAS. When you began to look into this matter, after the fire and the hearing, did you ask the State what was being done about reducing the number of drums on-site?

Mrs. SMITH. Yes, I am sure we did. I know what I noticed was when we went and looked at the records of the State Board of Health, there were reports in there from the company on a routine basis, you know, about how many barrels had been removed and gallons and this kind of thing. I know, myself, I came away from there with the impression that the company, itself, was regulating its own cleanup. That is the way it struck me.

Mr. LEVITAS. That was the impression you had.

Mrs. SMITH. Yes.

Mr. LEVITAS. Whether or not that was the case, you do not know?

Mrs. SMITH. No.

Mr. LEVITAS. You asked the question in response to the observation of Mr. Molinari, you know, where would you move? And that is again a question that we have heard too many times.

Mrs. SMITH. Yes.

Mr. LEVITAS. The people from Times Beach, their sad plight was very touching, because those people really were moved out of the fulfillment of their life's dream, their homes, their businesses and the like. And it is a growing situation around the country. People asking the question, "Well, where could we move?" There are the beginnings of a National Association of Victims and Victimized Communities, so that people can begin to focus on this, because of the common interest that you are being subjected to.

In your statement, Ms. Smith, I think this will be my last question, after you had gotten into the matter, and you were trying to get assistance from various sources, you spoke with the local fire chief, the mayor, fire marshal, board of health, attorney general, State police, manager of the industrial park, Governor's office, Senator Lugar's office, Congressman Hamilton, his office, everybody else you could, and you said that you were being considered as hysterical housewives.

But the one statement that really got to you, as I recall, you said, one official offered the candid comment that it would be very difficult, if not impossible, to get the site closed or cleaned up because there hadn't been a fatality yet. You said that really got your attention. Who said that to you?

Mrs. SMITH. I don't recall his name. I believe it was someone from the State fire marshal's office. It was in a telephone conversation.

Mr. LEVITAS. The implication being that somebody actually had to be killed in order to get some action?

Mrs. SMITH. Right; that was kind of the impression. Then that really happened in Indiana, later. There was a fatality of a worker at a hazardous waste site. So I guess it does happen.

Mr. LEVITAS. Well, unfortunately, for whatever reason, that philosophy exists in certain quarters. I am not going to get into it very extensively at this point except to tell you we have had hearings before this committee in which the gist of testimony was that, until we have a body count, we don't take any action.

And it is that precise philosophy that we are endeavoring to change, that where there is the likelihood of a health hazard to human beings, to citizens in this country, that is when you have to take action and take it effectively and take it quickly.

And your testimony, the three of you, and the experiences at Seymour, I assure you, will make a contribution to our efforts in bringing about that change. So I want to express my gratitude to the three of you for being here.

As you know, tomorrow, we will reconvene in this room at 10 o'clock. And we will be hearing from State officials who had their own raft of problems in this matter. We will be hearing from the commissioner of the Indiana State Board of Health, members of his staff; representatives of the Indiana State attorney general's office, as well as officials of the U.S. Environmental Protection Agency and the Department of Justice. That will be the agenda for tomorrow, and I look forward to some additionally enlightening testimony once again to flesh out the background against which we will be continuing these hearings in the days ahead.

If there is no further business to come before the subcommittee today, the subcommittee will stand adjourned until 10 a.m. tomorrow morning.

[Whereupon, at 1:10 p.m., the subcommittee was adjourned until 10 a.m., Thursday, December 15, 1983.]

HAZARDOUS WASTE CONTAMINATION OF WATER RESOURCES (SUPERFUND CLEANUP PROGRAM AND THE SEYMOUR RECYCLING CASE)

WEDNESDAY, DECEMBER 15, 1983

House of Representatives,
Subcommittee on Investigations and Oversight,
Committee on Public Works and Transportation,
Washington, DC.

The subcommittee met, pursuant to call, at 10 a.m., in room 2167, Rayburn House Office Building, Hon. Elliott H. Levitas (chairman of the subcommittee) presiding.

Mr. Levitas. The subcommittee will please come to order.

This morning we resume our hearings on the hazardous waste contamination of water resources, in particular, the examination of the 1980 Superfund law and, in particular, we are focusing on the Seymour, IN site.

Yesterday, as you will recall, we heard from a number of witnesses: local citizens, the mayor, the receiver of the Seymour Recycling Corp., and a citizen who had been active in focusing public attention on that matter.

Today we move logically to the next phase, and that is hearing the testimony from people who were—public officials who were first involved in this matter, who are here today. I want to express my appreciation for their cooperation.

I received a letter from Gov. Robert D. Orr the other day in which he responded to my request for the participation of the witnesses of the State of Indiana, and in which he assured me of his full cooperation. He also pointed out quite prudently that given the stringencies of budget requirements, he hoped that we would exercise appropriate restraint in requesting State employees to make future appearances in Washington.

We certainly are mindful of that, and would hope that the testimony today will be adequate for purposes of making the record that needs to be made in this matter. And I will make Governor Orr's letter a part of the record, and would request that the witnesses from the State of Indiana express my personal appreciation to him for his cooperation, which is very important.

We share common constituencies in the sense that we all represent the citizens of this Nation one way or another. After we hear from the witnesses from the State of Indiana, we will then turn our attention to the U.S. Environmental Protection Agency.

We will receive testimony from EPA as to the events which led up to their involvement in the Seymour site, and where that matter has taken them through and up to and including today.

Next we will hear from Michael A. Brown, a former attorney at the Environmental Protection Agency, who is now in private practice, and who was involved in the negotiations, the litigation strategy, and was very involved in this entire area. As I recall, he was deputy to Robert Perry, who was then general counsel of the Environmental Protection Agency.

Finally, today we will hear from the U.S. Department of Justice. That was also involved in the ligitation and settlement negotiations that are the focus of our attention here today.

I will say this. That I looked at some of the testimony, and it is extremely comprehensive and essential to our ongoing investigation. I am not at all sure that we will be able to finish all of the testimony that is scheduled for today during the time that we have available to us.

If that is the case, rather than foreshortening the questioning of the witnesses, it would be my intention to reach an appropriate stopping point, and reschedule the remaining witnesses who have not testified for a later occasion in order that there may be adequate time devoted to this matter.

I personally believe that what we will be finding out in connection with the Seymour, IN site will shed as much light and insight on the whole span of issues involved in the Superfund, the RCRA programs and some of the other Federal legislation programs dealing with the protection of the water resources of the Nation than perhaps any other single case.

I think that as the days ahead begin to unfold different aspects of this, it will become very clear that there is a need to make certain that some of the things that happened at Seymour, IN, cannot recur. It is for that reason that we look forward to the testimony this morning and this afternoon, and before we call the first witnesses, I would ask if my very good friend, the ranking member, Mr. Molinari, has an opening statement for which he is now recognized.

[Governor Orr's letter follows:]

Office of the Governor,
Indianapolis, IN, December 6, 1983.

Hon. Elliott H. Levitas,
Chairman, Subcommittee on Investigations and Oversight, Room 2165, Rayburn House Office Building, Washington, DC. 20515

Dear Chairman Levitas: In your letter of November 21, 1983, received by my office on November 28, 1983, you request my assistance in arranging for appropriate Indiana state employees to be present and participate in hearings your Subcommittee on Investigations and Oversight of the Committee on Public Works and Transportation has scheduled for December 14 and 15, 1983. I have ordered the state employees named in your letter to be present and cooperate fully in your hearings. One individual, Mr. Watson, is not under my jurisdiction, as he is employed by the Indiana

Attorney General, a separately elected office. However, I have urged the Attorney General to allow Mr. Watson to be present for your hearings.

Further, I have directed my staff and the State Health Commissioner, Dr. Ronald Blankenbaker, to cooperate with your committee in any other appropriate manner.

While I promise you total cooperation from the State of Indiana, I must ask your consideration in requesting state employees to make future appearances in Washington. Indiana still is suffering the economic effects of the protracted national recession and our state budget remains tight. I wish to be helpful to you and your colleagues, but I also must be a good custodian of the state's funds.

Please contact me or my Executive Assistant, Mr. Lewis Gregory, if I may be of any further assistance.

Cordially,

ROBERT D. ORR,
Governor.

Mr. MOLINARI. Thank you, Mr. Chairman.

Several events have occurred within the last couple of days that have me very deeply disturbed. An article that appeared in yesterday's paper indicating that Mr. Stockman is planning to cut back funding for the Center for Disease Control in the area where they attempt to assess the health risk of those that are living near the very dumps that we are investigating and are being investigated by State agencies throughout the country.

We had a witness living near Seymour yesterday describe the anguish that occurs from somebody living near a dump. I have similar situations in my own district.

Toxic waste sites are one of the most serious health problems confronting this country today. I understand that Mr. Stockman is pushing for the cuts and Mrs. Heckler objects to the cuts. I tried to reach her this morning but was not able to speak to her. We simply cannot walk away from this problem. I can assure OMB and the administration that there are a lot of us that are going to be fighting for funding in this very, very critical area.

That was not bad enough, but in today's paper we learned something that we have talked about oftentimes at our hearings. That is whether the Federal Government has adequate personnel to protect themselves against filing deadlines. Reportedly, Federal or State trustees for natural resources have in several instances failed to file damage claims within 3 years of enactment of CERCLA if the pollution was known by that date.

If the stories are accurate as they are being filed and reported today, that we have lost our right to file in many cases because the deadline has passed, simply because of bureaucratic bungling, certainly, those who are responsible should be called to task. Perhaps more heads should roll.

With respect to Seymour, there are a lot of unanswered questions. We know that the phase I cleanup work is proceeding to completion but as somebody said yesterday, the jury is still out.

There are some very, very serious questions involved in the Seymour dump site. The one that has me very, very concerned, and the one which I want to know the answer to, is how Chemical Waste Management, was able to get the cleanup work at Seymour.

Furthermore, we have memoranda in our files indicating that EPA knew that Mr. Sanderson, who worked for Waste Management, Inc. might have been involved—I know this is strong stuff, and I hate to make a statement that would prejudge somebody—but might have been involved in criminal activity.

Whether that is true or not, I don't know. But the very fact it was raised by the Environmental Protection Agency in memoranda certainly brings to question why EPA hired somebody with such a questionable background.

Mr. Chairman, I am very disturbed. I do believe there is a lot of progress being made at EPA and a lot of what happened in the past hopefully will not happen again in the future. But there are answers that must be given.

I will stay here until hell freezes over to be sure we get the answers, so we can tell the people out there what we are trying to do to cope with this very serious problem.

Thank you, Mr. Chairman.

Mr. LEVITAS. Thank you, Mr. Molinari.

Mrs. Johnson, do you have an opening statement?

Mrs. JOHNSON. No, Mr. Chairman.

Mr. LEVITAS. Let me say this. I appreciate my colleague calling those two news items to my attention. I had not seen either one of them until he did so. If the report is correct, that filing deadlines were missed because of inadequate resources, I can tell you that there will be people held to account, because those were specifically questions which we raised to witnesses under oath before this subcommittee over and over again, and the assurances we received that there were adequate people dealing with this matter in order to assure that those responsible would be held properly accountable, and we will hold accountable those who misled us in that regard if that is the case.

Another thing, the reduction in funding in the two areas apparently now being considered, so mind boggling as to defy belief, if that is the case, I think, a great deal of the damage control that was brought about through the appointment of Mr. Ruckelshaus will have been undone in one fell swoop.

I will continue, as I am sure my colleague knows, never to make this a partisan issue. But I can't believe that this administration would politically shoot itself in the foot in such a way after having begun to change a direction at EPA.

So I am aghast at what you have called to my attention. We will get around to those in due time.

At this point I would like to welcome to the subcommittee our witnesses, panel of witnesses, from the State of Indiana whom we are most pleased to have today.

We have with us Dr. Ronald G. Blankenbaker, who is the Health Commissioner of the Indiana State Board of Health. If you will come forward.

I understand you will be accompanied today by David Lamm, director of the Division of Land Pollution Control; James Hunt, Division of Land Pollution Control; Pat Berger of the Indiana State Board of Health; and Jim Knoy, Division of Land Pollution Control. Also, Mr. Jack Watson, assistant attorney general of the State of Indiana is also going to be with us on this panel today.

Gentlemen, we welcome you. We look forward to your testimony, and sharing with us the information that you have.

Mr. Watson, it would expedite this if you would join this panel unless you have a reason not to.

Mr. **Watson**. I have a separate statement.

Mr. **Levitas**. Sure, I understand that. What I intend to do is, since we are really talking about the Indiana role in this phase, is let Dr. Blankenbaker give his statement. Then I will ask you to deliver your statement. Then we would be in a position to direct questions to all of you.

Gentlemen, all testimony in this subcommittee is taken under oath. We are not singling you out in that regard. If you would raise your right hands.

[Witnesses sworn.]

TESTIMONY OF RONALD G. BLANKENBAKER, M.D., HEALTH COMMISSIONER, INDIANA STATE BOARD OF HEALTH; ACCOMPANIED BY DAVID LAMM, DIRECTOR, DIVISION OF LAND POLLUTION CONTROL, INDIANA STATE BOARD OF HEALTH; JAMES HUNT, DIVISION OF LAND POLLUTION CONTROL, INDIANA STATE BOARD OF HEALTH; PAT BERGER, INDIANA STATE BOARD OF HEALTH; JIM KNOY, DIVISION OF LAND POLLUTION CONTROL, INDIANA STATE BOARD OF HEALTH; AND JACK WATSON, ASSISTANT ATTORNEY GENERAL, STATE OF INDIANA

Mr. **Levitas**. Thank you very much, gentlemen. Again, welcome to you. I hope, Dr. Blankenbaker, you will express my personal appreciation to Governor Orr.

Dr. **Blankenbaker**. I would be happy to do so.

Governor Orr does send his greetings to you and his pledge for us to work with you in your endeavors such as we possibly can.

Mr. **Levitas**. Thank you very much. You may proceed as you so desire.

Dr. **Blankenbaker**. Mr. Chairman, committee members, I am Dr. Ronald G. Blankenbaker, the State health commissioner of Indiana. I am also the secretary of the Indiana State Board of Health.

I report to a nine-member professional board that is appointed by the Governor to carry out the activities of the responsibilities of the board of health in Indiana. I have provided as part of our testimony an organizational chart of the Indiana State Board of Health which will give you some idea of the broad responsibilities that we have.

This goes all the way from the traditional public health endeavors, contagious diseases and so forth, to the environmental responsibilities, a part of which we are to talk about today, and includes new programs such as health planning, health care costs and so forth.

So it is a very broad agency with a number of responsibilities, and somewhat difficult to manage at times. We have approximately 1,000 employees at the board of health. About 400 of those are in the environmental area.

Our annual budget is around $50 million. In the land pollution control area, which is what you are here to talk about today, our annual budget is around $2.4 million, $1.6 of that being Federal, and the rest State. There are approximately 50 employees in that division at this time.

One of the very general items I would like to mention is that, as I am sure you are well aware, funds are always a problem. I guess in public health we have never had enough money and probably never will. But certainly, in the area of dealing with hazardous waste, this is an extreme example.

We have provided written testimony for you. I will go through that briefly. But I did want to point out that appendix D does specifically address some of our funding problems.

You heard me say we have about $2.3, $2.4 million annual budget right now. We probably need at least a $5 million budget to do what we really need to do.

Mr. LEVITAS. Without objection, Dr. Blankenbaker, your entire statement and the appendices will be made part of our record in their entirety. So you can feel free to touch those points you want to and summarize others, as you so desire.

Let me just ask you one question about that. Is the funding mechanism for participation in matching grants such as required by Superfund, would that be part of, or attributed to the board of health budget under Indiana law?

Dr. BLANKENBAKER. No, it would not. Not the Superfund cleanup process. There is a—again, this is in our testimony. There is a trust fund which has been set up to aid in these endeavors, which, as you will see, is totally inadequate, even in those programs that are 10-percent cleanup.

I think the total amount in that fund at this particular point is $550,000. Ten percent of $30 million for Seymour would have taken all of that very quickly.

So we have a significant problem in that particular area. That is separate from the budget of the board of health that I was referring to. In all of this we need additional people.

We need additional equipment and additional space. One point I want to make is that, in spite of the lack of funds, in spite of the lack of resources, I am told that the region V office of EPA feels that the land pollution program in the State of Indiana is among the best in ability to enforce the requirements of the RCRA Program.

You may have noticed just recently that the Conservation Foundation presented a study of States and their ability to control the environment. In that particular study Indiana ranks 11th among all of the States, in spite of the fact that they point out that Indiana has one of the worst funded programs in the country.

We have in our testimony responded on a point-by-point basis to your questions. Let me say as a general comment that we are certainly supportive of the purposes of your committee investigation.

We will look forward to your report as we believe it will be helpful to us and others across the country as we deal with these difficult problems. Let me assure you that we would like to do everything we possibly can to prevent a recurrence of the situation such as we find at Seymour.

Again, I will be very brief as I go through these. I just want to highlight a few things in the testimony. Then we will be happy to answer any questions you might have.

The first question was for us to provide a profile of Seymour. We have done so. That is appendix A. I am not going to go further into that.

Second was a profile of the Seymour Recycling Corp. Some of the members of my staff are much more up on the specifics of that. If you have any particular questions beyond the testimony, I will refer those questions to them.

The third area is: What environmental and public health risks are we concerned about with the Seymour site? I would like to point out some highlights of our testimony to bring to your attention.

Early on with this facility, air emissions, because of an onsite incinerator, were the big concerns. Some of the people in the area had eye irritations and/or breathing problems. Also, there was concern about crop damage and so forth.

There were several fires early on in the operation of this facility. In addition, there was concern that chemicals were being dumped into the city sewer system, and it was obvious that there was contamination of adjacent receiving streams.

There also was a significant concern that wastes were being dumped and buried right on the site. Let me remind everyone that this was not a hazardous waste site. This was a recycling center, and I am somewhat embarrassed to say in Indiana that our two major problems with hazardous wastes have come from recycling centers.

But I think, as you will see from our testimony, the laws and rules we dealt with didn't necessarily allow us to deal with recycling centers like we would have been able to had they been hazardous waste sites. Around 1977, 1978, we did a preliminary hydrological study of the area, and this increased our concern that there might be some contamination or could be some contamination of nearby residential wells.

We were following these possibilities until the summer of 1983, when the Environmental Protection Agency took over the sampling of these areas and the monitoring. We also had concerns in terms of risks that there was vandalism in the area, especially at the point that it became abandoned.

There was very little security. Additionally, we were concerned about the onsite water treatment system which was not working properly and we worked with EPA to resolve that.

We were also concerned that many drums were found to be leaking into the soil. That further increased our concerns about the possibility of ground water contamination. The major concern that we have at this time is the threat of ground water contamination migrating to residential wells in the area.

So far, the monitoring wells that have been installed by the Environmental Protection Agency have not indicated major plumes of contamination offsite, nor much change in water quality since the installation of these wells.

So at this point we don't have evidence of contamination of wells, but it still remains a concern as long as there is a possibility of chemicals in the soil of that area.

Our fourth question was to define persons involved in pretty much any way with this activity. We have provided that to you in appendix B.

The fifth question was around the legal authority, the laws, the rules that we had to use, and what part that played in the problem that we are discussing today. Again, I will leave that to questions that you might have, and to some of the members of my staff, who are much more involved in this on a day-to-day basis.

Question 6 was kind of an interesting question, asking us why we were unable to spend 50 percent of the cleanup. I hope that my prior statement that if it was going to cost $30 million, and we only had $550,000—well, at that point we didn't have any funds available. We had no separate fund for the cleanup such as we are talking about.

We did have a—creation of a hazardous substances emergency response trust fund. This was a tax on the land disposal of hazardous wastes.

That law was passed in our 1981 general assembly. The tax was assessed in 1982, but not collected until 1983. That is the reason we only have approximately $550,000 in that fund at this time.

You can see how quickly those moneys would dry up. There is a significant concern in Indiana at this point as to how we are going to deal with this.

I might just say as a sidelight, one of the concerns that I have had as the person responsible for this agency and its activities is committing ourselves, committing the State to a cleanup operation when we have had absolutely no resources to pay our part of the cleanup.

This has been a real concern and has put us in some difficult spots on several occasions. No. 1, you questioned our role in the negotiations on the agreement between the Department of Justice and the generators. Let me just say that we had very little to do with the final agreement between the generators and the Department of Justice.

We were involved rather significantly with U.S. EPA in the development of the technical plans. But we were not really involved in the negotiations on the agreement, and we can answer more specific questions on that, later.

Question 8 questions the cooperation, coordination of activities between the Environmental Protection Agency and the State. Generally, I would just like to summarize that it has been a cooperative attitude.

The biggest problem we had was the disagreement on whether 50 percent of the cleanup funds should come from the State or be 10 percent. I would have to say that that disagreement resulted in a significant delaying of the cleanup.

Again, we were in a tough spot because there was no way we could have come up with 50 percent. Again, as a sidelight, all of this was happening to us in the State of Indiana when our economy was declining rapidly. We were put on an across-the-board freeze.

When we lost a person, we couldn't replace him. We took several 10-percent cuts in our budget. Not only did we not have adequate resources, we were losing resources at this time and that contributed to much of the problem that you have heard of.

No. 9, you asked for an oversight, overview of current sites in Indiana, and what we are doing about them. We have provided that in appendix C. Again, I wouldn't go into detail.

Let me say that at this point we are doing everything we can, with support, I would say throughout the State of Indiana, to obtain final authorization from the Environmental Protection Agency so that the State of Indiana would administer the Resource Conservation and Recovery Act within the State of Indiana.

Governor Orr has created the Indiana Commission on Environmental Policy. He did this in November of this year. That Commission has been charged to develop a plan for dealing with hazardous waste in the State and to create long-term environmental policies.

Let me say that one of the other difficulties that I have felt we faced is we frequently did not have an understandable policy on what the State of Indiana wanted in terms of environmental control. We were frequently told by our legislature and others that we should do what the Federal Government required, but not go beyond that.

That makes it very difficult when you have got specific problems that maybe the Federal law, rules or policy does not deal with, or when you have some other direction you would like to go, or whether you deal with a community whose standards are beyond that which the Federal law allows, and yet you are being asked to carry out those kinds of requests.

We have stated very strongly to our legislature, our Governor and others, that there is a need for an overall policy, and what it is that Indiana wants to do for control of its environment.

I believe that the Governor's commission that has just been created will do that for us, and we welcome that very much.

Question 10 was a request for a summary of what has been going on legislatively. In the past year we have had a study commission which did result in the Governor's development of the policymaking commission. The Governor's commission that has been created is a seven-member policy commission, and they will most likely develop a set of comprehensive recommendations related to State policies, financing and management of the State's environmental programs including solid and hazardous waste.

In addition, the Governor has committed himself to see that whatever funds are necessary within in the limits of his authority are made available to ensure that Indiana will be able to obtain final authorization of our hazardous waste programs.

There is recognition in Indiana that that is a significant amount of money. This is a short session for us, the coming general assembly starting in January. But we have had assurances from a variety of areas including, as I said, the Governor, that everything will be done to develop the funding necessary for us to attain final authorization.

Question 11 was finally a request from us on what we would recommend in terms of Federal legislation. Again, I am going to be very brief, just a couple of things I would like to highlight. Our first three recommendations are related to funding, such as Mr. Molinari has pointed out, that there aren't adequate funds currently. Any cutback would be, we feel, very damaging. There obviously is a need for more funds.

I just have to think every time that I see something happen such as Times Beach, MO, when we have to buy out an entire community because there is dioxin in the soil, with the cost of that, it is obvious that the expenses across the country are infinite.

Certainly, in Indiana, we are concerned at where we are going to find the funds to clean up all the sites that need to be cleaned up. We certainly are recommending that you take a serious look at certainly reauthorization of the response trust fund and expansion, to include other sites in addition to the national priority list and to aid States to increase their staffing so that they can better deal with the problems they face back home.

Our fourth recommendation is in the area of health studies. As a physician, as a public health official, probably the most frustrating problem I have to deal with is this difficulty of what have these chemicals done to the environment and what are they likely to do to the health of people?

The Centers for Disease Control in my mind is one of the most credible Federal agencies we deal with. They do their work well. They do it very methodically. I know there was some question yesterday about the report that they made about cancer in this particular area. But I found them to do this work very scientifically and have found very little fault with the activities that that organization carries out.

I would certainly say personally that I believe it would be very damaging if their funds were decreased in this particular area. And I feel that they should be given all the support and funding that they possibly can, because there is much, much we don't know about the effect of chemicals upon the environment and upon humans.

And if I am being called upon to make a decision that is going to cost a community thousands or millions of dollars or more, I would like to know that I have got the facts that support what kind of hazard, what kind of a risk this really is. And frequently we just don't have those kinds of scientific facts upon which to make that decision. If we are going to be responsible, if we are going to make responsible decisions, we must have that information.

The next recommendation was that we would hope that EPA would be directed to modify the hazardous ranking system to allow additional emphasis to be placed on the environmental damage a release of hazardous substance has caused or can cause, as well as the threat to public health and welfare. Currently we are having to deal with a somewhat limited area. We would like to see that expanded upon.

Next we have always had a concern about the 50-percent State match. More and more, these sites are becoming multi-million dollar operations to clean them up. And with a municipality such as Seymour, we see no way that the city or even the State, in this case, could afford to pay 50 percent of the cleanup of an operation like this.

And then, last, we believe that authority should be granted for the response trust fund or, alternatively, the postclosure liability fund, to be used to support operation and maintenance activities at a site after remedial actions have been taken. These may ultimately become the most expensive part of these cleanups, maintaining these sites forever so that there is some assurance that they are not contaminating the environment or causing a health hazard.

I have tried to be brief. We have tried to be as complete with our testimony as we possibly could be. I would be happy to introduce, if you would like, the other members with us.

[The statement of Ronald G. Blankenbaker follows:]

[Draft Statement]

THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT, DECEMBER 15, 1983

(Prepared by the Indiana State Board of Health, Ronald G. Blankenbaker, M.D., State Health Commissioner)

The following comments correspond to the list of topics attached to the letter requesting the appearance of the staff of the Indiana State Board of Health before the Subcommittee on Investigations and Oversight on December 15, 1983.

1. The City of Seymour is located approximately 64 miles south of Indianapolis, Indiana, along Interstate 65 at the intersection of U.S. Highway 50. As such, it is conveniently located for highway transportation. The city and the surrounding area is in the White River basin.

The attached Appendix A, entitled "Socio-Economic Characteristics," summarizes the industrial and demographic make-up of the community.

2. The present Seymour Recycling Corporation [SRC] began as a division of Seymour Manufacturing Company, a company in Seymour which has manufactured hand tools and fireplace accessories since 1872. The Chemical Division of Seymour Manufacturing was established in 1968; the operation moved to the location in Freeman Field Industrial Park in 1970. The 13-acre site is surrounded by farmland owned by Freeman Field, which in turn is owned by the City of Seymour. The nearest residence is located approximately 1500 feet to the north in the Snyde Acres Subdivision. The soils in the area are predominately sandy and the residents rely upon shallow wells for their water supply. The site is located approximately two miles west and one mile south of the center of Seymour.

The operation continued as a Division of Seymour Manufacturing until July, 1976. Its activities initially consisted of redistilling solvents generated by the Company's own manufacturing operation; however, over a period of time, the operation was expanded to accept wastes from sources as far west as Colorado and as far east as New Jersey. Additional distillation equipment, two incinerators and a cyanide treatment system were added to the operation. Although early records of the ISBH do not focus on the amount of waste accumulating on-site, apparently an unmanageable amount of waste has been amassed at a fairly early date in the operation's history. As the July, 1975, EPA publication 530/SW-145, states, 40,000 drums of waste were on hand as of June, 1974. Much of the waste stockpiled could not be processed with SRC's equipment.

In July, 1976, the operation was divorced from the parent company and Seymour Recycling Corporation was established. The Birge and Hobson families continued to maintain ownership of the corporation and activities at the site remained essentially unchanged.

In July, 1978, in the midst of litigation initiated by the State, Seymour Recycling Corporation was sold to Environmental Processing Corporation, one of several companies owned by William Kovacs and Bruce Whitten. Kovacs and Whitten also owned Chem Dyne Corporation, an operation similar to SRC in Hamilton, Ohio, which has been the subject of CERCLA action. Under their management, operations at SRC were closely linked to the Chem-Dyne facility and an extensive "fuel blending" program was developed.

From June, 1978, until February, 1980, SRC operated under an Agreed Order issued by the Jackson Circuit Court. The thrust of the order was to allow the operation to continue with the intent of generating revenue which would be utilized to reduce inventories and create a viable recycling operation. By mid-1979, it was apparent that the intent of the Agreed Order was not being fulfilled, therefore, the State initiated action in Jackson Circuit Court. In February of 1980, Seymour Recycling Corporation management abandoned the site, after having removed many of the assets. At the request of the State, the Jackson Circuit Court appointed a receiver to be responsible ~~for the site.~~

3. The environmental and public health problems and risks associated with SRC have varied somewhat over time. While SRC was in operation, a major area of concern was that of air emissions from the on-site incinerator. Complaints from neighboring residents of eye irritations and breathing problems were common and crop damage from the fallout from operation of the incinerator was alleged. In addition, emissions of volatile organics from waste handling practices were noted by State inspectors. Seldom, if ever, did SRC personnel wear respiratory protection. Several fires occurred which caused sizable emissions. Concern has also been expressed that chemicals were dumped into the city sewer system, at times causing harm to the city wastewater treatment plant and possibly adversely affecting the disposal of the sewage sludge. Contamination of the adjacent receiving stream was evident. There were also complaints by employees and nearby residents that large quantities of wastes were dumped and buried on-site.

A preliminary hydrogeological study conducted by ISBH staff increased the agency's concern that nearby residential wells could become contaminated Chemical analysis of residential wells was initiated in 1978 and continued until the summer of 1983 when the U.S. EPA agree to take over sampling.

Several areas of concern were addressed during the emergency action that began in 1980 by the Federal government, initially under Section 311 of the Clean Water Act. Certain explosive chemicals were detonated under controlled conditions. An existing berm was made continuous around the site to prevent contaminated surface water from reaching area steams. The surface water was subsequently treated with an on-site treatment unit and discharged to the city sewer system. Certain reactive chemicals were repackaged to prevent releases of toxic chemicals such as hydrogen cyanide. A groundwater study utilizing monitoring wells was initiated. Air emissions on the site were still a concern due to the large quantity of volatile materals present on-site.

Subsequent to the 311 action and prior to the surface cleanup, on-site air emissions were still a concern to those entering the site. Vandalism had occurred on the site during this time period. The site was unoccupied and security was minimal. The on-site surface water treatment system was not operating properly, therefore, the State and Federal governments spent $12,000 in September of 1982 to upgrade the system. Many more drums were found to be leaking into the soil, increasing the concern for possible groundwater contamination. It was determined that leaky drums of incompatible chemicals wee staged too close to one another. Bottles of explosive materials, such as crystalized either, were found in the laboratory on-site.

While the surface cleanup was underway, air emissions immediately around the site were of concern due to cleanup activities. However, that threat is greatly reduced, if not eliminated, now. The same can be said for the threat of fire and explosion or the mixture of reactive (incompatible) materials. Discharges of treated water to the city sewer were and continue to be an area of concern. Although most of the surface waste has been removed, analyses indicate some contamination might still be present in the groundwater that infiltrates into the surface water treatment system's collection pond.

The major area of concern, at this time, is the threat of groundwater contamination migrating to residential wells. During surface cleanup activities, it was apparent that some contamination still is present in the subsoil and previous information suggests the possibility of buried containers of hazardous wastes. Although a portion of the site was temporarily covered with clean soil, other areas, which were probably contaminated, were not covered.

Thus far, the monitoring wells installed by the U.S. EPA have not indicated major plumes of contamination off-site nor much change in water quality since their installation. Some areas of concern, such as the characteristics and possible extent of contamination of a deeper aquifer are to be studied, under a Federal contract, in the near future. Also to be studied, is the extent of contamination of on-site soils including the presence of buried wastes. The State has also requested that off-site soils be studied for contamination that might have resulted from operations when the site was active.

4. Appendix B contains the information requested in question 4. ISBH staff have assembled as much information as could be derived from ISBH files. More information might be available from other parties that were involved with SRC.

5. Because of the diversity of activities at Seymour Recycling, the operation was affected by a number of laws and regulations which were administered by several different program areas within the ISBH, as well as other State agencies.

From the records, it appears that the first ISBH department to have contact with SRC was the Air Pollution Control Division. The Corporation was issued an incinerator permit in 1974, and subsequently, permits for an additional incinerator and two boilers were issued to the operation. The permits were issued under Air Pollution Control Board Regulation APC-19.

In 1975, the Stream Pollution Control Board [SPCB] issued an NPDES permit to the Corporation to discharge cooling water from the distillation equipment to the stream. At a later date, the Board issued a permit for SRC to construct and operate a cyanide treatment system. Both permits were issued under SPCB Regulation SPC-15. The Corporation also applied for permits to treat the incinerator scrubber effluent and neutralized acid waters. Both applications were denied because of insufficient data. The SPCB also issued a Liquid Industrial Waste Hauler Permit to the Corporation in 1976 pursuant to Regulation SPC 17 (now 320 IAC 5-10). The Liquid Industrial Waste Hauler Permit was revoked in April, 1978.

The Solid Waste Management Section of the Division of Sanitary Engineering (later reorganized into the Land Pollution Control Division) was involved with Seymour Recycling in predominately three program areas. EMB Rule 320 IAC 5 (formerly SPC 18) requires approvals for landfilling of hazardous or special waste. During its history, predominantly since 1978, SRC has sought approvals for off-site disposal of solid waste. A second program area involves the previously-mentioned Liquid Industrial Waste Hauler Permit Program. In 1978, the responsibility for administering the hauler program was transferred from the Water Pollution Control Division [WPCD] to the Solid Waste Management Section [SWMS]. At the same time, the enforcement action initiated against SRC under the hauler program was transferred to the SWMS. In additon to the two areas mentioned above, the Land Pollution Control Division [LPCD] was, and continues to be, involved with SRC with respect to interfacing with U.S. EPA on the Section 311 and CERCLA actions at the site.

The regulations discussed above have remained essentially unchanged to this day as they would apply to operations such as SRC. However, in November, 1981, the Environmental Management Board promulgated 320 IAC 4, a set of rules which, for the most part, parallel the Federal Hazardous Waste Management Program. However, one significant difference between the two programs is that the State regulations require that a recycling facility, such as SRC, obtain a Hazardous Waste Facility Permit.

There were several factors which contributed to the inability of the State of Indiana to prevent the occurence of the problems at SRC. The most significant factors were:

a. The laws and regulations in place during the operation of SRC were not created with the intent of regulating those types of facilities and were ineffective in addressing the associated problems and abuses. Certain regulations apply to portions of the operation, such as incineration and wastewater treatment. However, the emissions and effluent guidelines were not applicable to many of the hazardous waste constituents. For example, air emissions standards were set for sulfur dioxide and particulates, but not toxic organics.

b. The most obvious problem at SRC was the indiscriminate accumulation of drums of waste on-site and the resulting deterioration of containers and the release of waste to the environment. There were no regulations which specifically prohibited the gross mismanagement of waste at SRC and the burden was on the State to prove that such activity represented an imminent threat to the public and the environment. In the absence of background data, proving that an imminent threat existed was difficult.

c. The lack of adequate laboratory support greatly increased the difficulty of proving that an imminent hazard existed at SRC. The State Board of Health laboratory was unable to perform most organic analyses and many inorganic parameters. To a great extent, staff was forced to rely on appearance and odor to support that discharges to the environment represented a signicant threat.

d. State inspectors were not trained or equipped to perform investigations which could document intentional dumping (midnight dumping) such as allegedly occurred at SRC. Assistance was sought from the U.S. EPA and the FBI to investigate potential criminal activities.

e. Prior to the State Hazardous Waste Regulations, operations such as SRC did not fall within the traditional program areas within the ISBH. Consequently, personnel were reluctant to devote adequate resources to cope with the problems of these sites and/or they failed to appreciate the extend of the problems. Such is the case with SRC.

f. For the most part, the City of Seymour was uncooperative with the State in dealing with the problems at SRC. City officials vacillated between blaming the State for allowing the operation to exist and charging that the State was making it impossible for SRC to conduct a "legitimate" business. Harmful discharges from SRC to the city sewer were dismissed as inconsequential or originating from sources other than SRC. In 1979, when the State filed an action in Jackson Circuit Court to require SRC to install monitoring wells, the City of Seymour blocked the action by stating that the wells could not be installed on Freeman Field property.

g. The Court was reluctant to recognize SRC as in imminent threat, partially because of the vague provisions under which action was being taken and partially because there was insufficient technical data to define the extent of the hazard. In April of 1978, the State requested that the operation be closed down immediately and that the owners be required to clean up the site. The Court instructed the State and SRC to negotiate an agreement which would reduce inventories while allowing the Company to continue operating. In 1979, the State established that inventories were being increased rather than reduced and a new action was filed in Jackson Circuit Court. However, SRC abandoned the site before a hearing could be held.

In 1979, the ISBH requested the assistance of the U.S. EPA to take emergency action under Section 311 of the Clean Water Act and the request was denied based on the fact that the problems at SRC were beyond the scope of Section 311. However, action under Section 311 was initiated by U.S. EPA in March of 1980, as a result of a chemical reaction which occurred on-site and subsequent evacuation of the Snyde Acres Subdivision. The question of whether action at SRC was within the scope of Section 311 was a frequent topic during subsequent emergency work at the site and greatly affected the approach that was taken in mitigating the environmental and public health problems.

6. In response to the need for the State to provide matching funds for cleanup costs under CERCLA for sites not cleaned up by responsible parties, the Indiana General Assembly passed IC 6-6-6.6 to provide for the "Hazardous Substances Emergency Response Trust Fund". The Trust Fund is a sinking fund which has a maximum allowable amount of $10,000,000. The Trust Fund results from a levy of $1.50 per ton of hazardous waste that is land disposed in the State, of which $1.00 goes to the Trust Fund and $.50 goes to the county in which the waste was disposed.

Despite the fact that the levy has been assessed for almost two years, approximately $550,000 exists in the Fund from taxes and interest on investments. The Trust Fund is intended to be used potentially for all CERCLA sites in the State. There are presently 17 Indiana sites on the National Priority List [NPL] and 449 Indiana sites being investigated under the Emergency Response and Remedial Inventory System. The cost estimate provided by the U.S. EPA for the cleanup of SRC was $30,000,000. If the site were a 10% match site under CERCLA, as the State contends it should be, the State would have had to provide $3,000,000. The Federal government maintains that SRC is a 50% match site under CERCLA due to the fact that the site was leased to SRC by the City of Seymour. If the Federal interpretation is correct, the State could have been required to provide $15,000,000. Clearly, the State is unable to provide adequate matching monies under CERCLA for sites with the magnitude of problems like SRC has under present fiscal restraints.

7. The negotiations with responsible parties which led to the subsequent cleanup of SRC was an outgrowth of the Federal suit filed against SRC and affiliated parties in April of 1980. Staff of the ISBH were very involved in working with the U.S. EPA in developing the suit and much of the supporting evidence was provided by the ISBH. However, for the most part, the negotiations with the generators was handled by the U.S. Attorney's Office and the Department of Justice. The State was only nominally apprised of the negotiations and was not included in most of the meetings with the generators until later in the negotiation process when it was probably realized that the State would have to agree to any settlement made.

The Staff's first involvement in the negotiations, which led to the October 26, 1982, agreement, was the August 16, 1982, receipt of a technical draft prepared by Chemical Waste Management [CWM]. It was the State's understanding, at the time, that previous drafts had been reviewed by the U.S. EPA. Subsequently, several meetings were held among the ISBH, CWM, U.S. EPA, and representatives from the responsible parties to make changes in the technical document which would insure compliance with all applicable laws and regulations and to provide for a cleanup that would satisfy both the State and Federal requirements for an "adequate" cleanup. Several drafts were reviewed and commented upon until a final draft, which met with ISBH approval, was presented on November 1, 1982.

Concurrent with the development of the cleanup plan, a Consent Decree, of which the cleanup plan was an attachment, was being prepared. The Indiana Attorney General's Office was the lead State agency in developing the Consent Decree. ISBH staff commented on the Consent Decree but did not directly interface with the Federal government.

The ISBH approved the cleanup plan based upon its technical merit. Staff informally requested U.S. EPA to provide data supporting the $15,000,000 cost estimate for the groundwater/subsurface cleanup, but no information was received.

A negotiated settlement for the cleanup of SRC offered a decided advantage over litigation, in that the cleanup could be effected at a much earlier date. Pursuing litigation against the generators could have delayed initiating the cleanup for a considereable period of time. As discussed elsewhere in this document, the State was not able to provide matching funds for a CERCLA funded cleanup either. Given the deteriorated condition of the containers at SRC, delaying cleanup would have resulted in further environmental damage that could have been much more costly to remedy.

8. For the most part, there has been good cooperation between the U.S. EPA and the ISBH in developing solutions to cope with problems at SRC. The State requested and received excellent assistance from U.S. EPA's Environmental Photographic Interpretation Center [EPIC] in 1979 with respect to taking aerial photographs and conducting a count of the number of drums on-site. Information received from EPIC was essential in establishing that SRC was not reducing inventories as required by the State Court Order.

In 1978 through 1980, U.S. EPA and DOJ worked closely with the ISBH in developing the Federal suit which was filed against SRC Corporation and associated parties. Much of the evidence used for the suit was obtained from the ISBH.

In 1978, there were numerous allegations by residents and former and present employees that SRC was conducting illegal activities on-site (dumping wastes into the sewer, dumping wastes into the ground and burial of wastes). The U.S. EPA and the ISBH worked together closely in investigation of these allegations and referral to the FBI for possible criminal investigation.

Coordination and cooperation between the U.S. EPA and the ISBH was somewhat strained during the initial stages of the Section 311 action in early 1980, primarily because of a difference in understanding as to the role of each agency and to the objectives of the emergency action. Section 311 actions traditionally had the objective of mitigating the effects of immediate problems until long-term actions could be taken. Therefore, considerable effort was expended on temporary measures (restacking badly deteriorated drums, installing temporary monitoring wells and installing a dike) which proved to be ineffective, even on a relatively short-term basis. Subsequent actions at the site (removing liquid wastes from tanks, installing a permanent dike around the site, and installing new monitoring wells) acknowledged that the short-term solutions were not effective in mitigating the immediate hazards at the site.

Generally, there has been very good cooperation between the State and U.S. EPA regarding the technical reviews of the surface cleanup proposal [Topol] and the subsequent monitoring of the surface cleanup. The U.S. EPA On-Scene Coordinator [OSC] has been very insistent with her agency that the State be contacted regarding any proposed changes to the Consent Decree technical document. The State Project Coordinator and the U.S. EPA OSC discuss site activities almost daily.

The U.S. EPA has also been cooperative, in that recognizing that the State had fiscal constraints, portable wastewater treatment units were brought on-site to remove the large quantities of surface water that made work on site difficult, if not impossible, at times. The State would have had difficulty providing matching funds to further upgrade the existing surface water treatment system.

Although the U.S. EPA now is exhibiting cooperation with the State regarding the upcoming subsurface and remaining surface contamination study, earlier drafts of study plans were approved without solicitation of State comments.

The ISBH staff were very concerned about the 50% match requirement that had been imposed upon Seymour Recycling because the Site is owned by the City Airport Authority and was leased to industry. On December 15, 1981, David D. Lamm, Director, Land Pollution Control Division, ISBH, accompanied State Senator Joseph V. Corcoran and two membes of the Seymour Chamber of Commece to Washington D.C. for the purpose of meeting with Senator Richard Lugar's staff and various U.S. EPA representatives regarding the amount of funds (percent of match) necessary for the State of Indiana to provide under any "Superfund" cooperative arrangement.

Senator Corcoran provided background information to Senator Lugar's staff and stressed the local concerns with respect to the perceived inaction on the part of the necessary authorities to provide an ultimate remedy for the site. Concern was expressed with respect to other contamination of the shallow groundwater aquifier.

EPA representatives who met with Indiana State and Seymour City officials were: Chris Capper, Deputy Assistant Administrator for Superfund; Colburn Cherney, Office of the General Counsel; Whit Field, Congressional Relations Office; and Elaine Stanley, Office of Superfund. After some general bantering about of philosophies, it was agreed that:

a. EPA would review its position in light of our inquiry and respond in writing so that State directions and plans could be formulated.

b. EPA would provide a list of facilities that they were aware of that would fall in the, at best, 50% required category.

9. Indiana currently is attempting to obtain final authorization from the U.S. EPA to administer the Resource Conservation and Recovery Act [RCRA] program within the State. Phase I of the Authorization was obtained in August of 1982. The State is pursuing Final Authorization of its Hazardous Waste Management Program. As discussed in more detail later, an Indiana General Assembly committee has investigated the problem and has made recommendations to expand the ISBH to meet Federal requirements. The General Assembly will address the issue in 1984. Governor Robert D. Orr created the Indiana Commission on Environmental Policy in November, 1983, to develop a plan for dealing with hazardous wastes in the State and to create long-term environmental policies. Indiana has 2,201 (EPA estimate) generators, transporters and facilities that treat, dispose and/or store hazardous wastes. While EPA requires inspections of major facilities annually, ISBH staff attempt to visit major facilities more often. The ISBH has 11 positions for hazardous waste field inspectors, two of which are currently vacant.

Indiana has 17 sites on the National Priorities List [NPL]. Appendix C of this report contains a summary description of each site. Indiana has 449 sites under investigation under the Emergency Response and Remedial Inventory System [ERRIS]. The ISBH has only four staff members who coordinate CERCLA activites with other staff. Two other staff members work in the ERRIS program. Some of these six staff members work on both ERRIS and CERCLA sites. Technical reviews of CERCLA site plans are also conducted by the technical staff who also work in the RCRA program. Clearly, there is not an abundance of CERCLA staff at the State level. The Indiana General Assembly, hopefully, will also address this issue.

The Indiana Hazardous Substances Emergency Response Trust Fund is designed to provide CERCLA match monies for cleanups and not for staff. There is a recognized shortfall in the Hazardous Substance Emergency Response Trust Fund. There are proposals to increase the tax from $1.50 per ton to $5.00 per ton. Other states that have a similar tax charge up to $7 per ton. However, others question the fairness of the tax and would rather see a tax with a broader base imposed. This issue, however, may not be addressed in the 1984 Indiana General Assembly because the session will only remain open for thirty (30) working days. Both the amount of money in the fund and the need for a State superfund law similar to CECLA could be addressed in the 1985 Indiana General Assembly. The 1985 Session will be a longer session, which would allow sufficient time for the proposed rule to be introduced.

ISBH has received a $282,000 grant from U.S. EPA for a 15-month period to complete preliminary assessments and to assist with site inspections on sites that have been reported to be completed by the State. The grant authorizes a general records search for available information from various sources, a visit to the site and a recommendation for or against further investigation of the site. A site inspection is scheduled and up to ten (10) samples are taken for those sites that appear to warrant it. EPA contract laboratories are to complete the sample analysis and all sampling and analysis costs are provided for by EPA. This grant was received as part of the ERRIS program that was also discussed above in Item 9.

Seymour Recycling Corporation received many materials that could never have been recycled but brought money into the Corporation. These materials were either stockpiled, dumped onto the ground or shipped to Chem Dyne, the sister corporation in Ohio. Indiana has experienced other problems with similar recycling companies that take waste that has no value as a recyclable material. Hazardous waste recycling firms have caused some of our most severe problems. The Indiana Environmental Management Act has addressed this concern by including the word "recovery" within the definition of a hazardous waste facility. In this way, Indiana law is more stringent than the Federal law.

One remaining area of concern is that, as a result of Indiana laws of incorporation, funds that could be used to remedy some of these site problems are unavailable because of the corporate veil that protects them. A company may increase their inventory of stored hazardous waste while simultaneously funneling money off into another corporation and then leave the state with cleanup responsibilities.

10. Legislatively, this year was predominately limited to fact finding. The House Environmental Affairs Standing Committee held a series of hearings on solid and hazardous waste management and regulation. The Committee did not intend to collectively draw conclusions or make recommendations. Committee members individually will potentially introduce legislation during the uncoming session beginning in January. An interim study committee comprised of members of both the Senate and House was created by the General Assembly in early 1983 for the purposes of evaluating Indiana's Solid and Hazardous Waste Management Program, and in particular to:

a. Assess the policies of the Indiana Environmental Management Board as expressed in its rules, orders, and standards to determine whether the Board's criteria and standards meet the objectives of the General Assembly.

b. Evaluate whether the supporting staff from the Indiana State Board of Health has adequate manpower and expertise in the areas of hydrology, chemistry, biology, limnology, toxicology, hydraulics, soil engineering, air quality monitoring, air contamination removal, water quality monitoring, and water treatment to effectively monitor and independently evaluate hazardous waste management in the states.

c. Evaluate the extent to which a reorganization of the program is needed to assure economy and efficiency in the delivery of its services and the protection of public health.

The Study Committee held several fact finding hearings over the summer and fall and adopted the following recommendations:

a. The State should seek to retain its authority as to the regulation of hazardous waste in Indiana by applying for "Final Authorization" under RCRA.

b. The state should make every effort to hire the necessary additional staff and acquire the necessary additional equipment and space for the State Board of Health, Division of Land Pollution Control and Bureau of Laboratories in time to qualify for RCRA "Final Authorization" before the applicable deadline, and the legislature should appropriate the funds to make this possible.

c. The State should explore solutions to the problem that a raise in the salary scale for ISBH staff members involved in the hazardous waste program would normally entail a raise in salary scale for all other State employees of the same job classification. Specifically, the State should consider the solution adopted in Louisiana; i.e., the creation of a separate salary scale for hazardous waste program employees.

d. The legislature should create a new environmental policy commission empowered to play the planning and policymaking role that the Environmental Management Board has proven incapable of playing. Free of the administration and adjudicative duties that have occupied the EMB, the environmental policy commission would be able to consider broad questions such as:

(1) Should the State encourage the opening of new permit-worthy hazardous waste landfills to accommodate industrial growth, despite the health risk inherent in even the safest landfills?

(2) Should the State attempt to encourage the reclamation and recycling of waste products? By what means?

(3) Should the State impose high taxes on the land disposal of hazardous waste, or might this discourage State regulators from ordering the closure of a large disposal facility when warranted because closure would mean a sharp drop in State revenues?

(4) Should the State differentiate between different types of hazardous waste based upon the differing degrees of danger associated with them?

(5) How can the State combat "midnight dumping?"

(6) Should the State offer tax credits to encourage the use of incinerators and other alternative disposal technologies, even if many of the State's industrial firms produce wastes that are unsuitable for disposal by any means other than land disposal?

e. Funds for the operation of the expanded Solid and Hazardous Waste Program should be provided through adoption of a new program of taxes or fees, or both. The program might include the following points, some of which have been concurred in by a tax subcommittee of the Indiana Manufacturer's Association:

(1) A strong incentive to encourage recycling of waste.

(2) A moderate tax incentive to encourage incineration of hazardous waste.

(3) A tax burden to discourage hazardous waste in the land.

(4) A new system of fees to be collected in connection with the processing of applications for solid waste and hazardous waste permits.

Responding to these recommendations and those of the State Board of Health, the Governor has recently announced the creation of a seven-member Indiana Environmental Policy Commission. The Commission will develop a set of comprehensive recommendations relating to State policies, financing, and management of the State's environmental programs, including solid and hazardous waste. The Commission is directed to consider the long-term needs of the State to protect the health and safety of our citizens and to ensure a healthy competitive environment for economic development and job creation.

The Commission is to report its findings and recommendations to the Governor and General Assembly by December 1, 1984. Additionally, quarterly reports are to be submitted to the Governor and the Chairman of the House Committee on Environmental Affairs and the Senate Committee on Natural Resources and Environmental Affairs.

The Governor has also committed to see that whatever funds are necessary within the limits of his authority, are made available to insure that Indiana will be able to obtain "Final Authorization" of our hazardous waste programs. This commitment includes requesting an appropriation from the legislature, if necessary. Toward this end, the State Board of Health has presented to the State Budget Committee several funding alternatives for consideration by the 1984 Session of the General Assembly.

The 1984 Session is a "short session" limited to 30 session days. Consequently, the Administration will concentrate on the funding issue. Major legislature changes will most likely be dealt with in the "long" 1985 session. The "authorized program" will be in place and the Governor's Policy Commission will have issued a report. Also, the Congress, hopefully, will have acted on both RCRA and Superfund reauthorizations.

Consequently, the 1985 session probably will see the greatest environmental legislation activity since the adoption of the Solid Waste Site Approval Authority and Hazardous Waste Disposal Tax acted upon in 1981.

11. Indiana has benefited tremendously from CERCLA. The Law has provided legal mechanisms that provide incentives for responsible parties to settle with the government rather than litigate. The CERCLA Hazardous Substances Trust Fund (Trust Fund) has allowed several Immediate Removal and one Planned Removal cleanups within the State. Much needed remedial investigations are being conducted under the CERCLA Trust Fund.

The State does differ with U.S. EPA on the interpretation of CERCLA which categorizes SRC a 50% match site. By assessing the States 50% match on those sites that were owned by subdivisions of the State, it is assumed that those subdivisions are more sophisticated and have more moral obligations than the private sector. Many times, the direct opposite can be seen, where a city is not as aware of consequences as a private company might be.

The ISBH has worked with the Association of State and Territorial Solid Waste Management officials and several other states in preparing issues that should be considered when CERCLA comes before Congress for reauthorization. Some of the main issues are as follows:

a. *Reauthorization of the Response Trust Fund.*—The Hazardous Substance Response Trust Fund should be reauthorized. Reauthorization should be for at least five years.

b. *Expansion of the Response Trust Fund.*—The Fund should be increased so that it could reasonably be expected to address the sites on the National Priority List, proposed sites and new sites yet to be proposed for listing, as well as the administrative cost of both EPA and the states in carrying out cleanup actions.

c. *State Staff Support.*—Funds should be made available to states, either from RCRA or CERCLA, to provide additional staff for state led projects. These funds should be provided separate from site specific cooperative agreements, and upfront, so that staff can be in place *before* action on a project begins.

d. *Health Studies.*—Funds should be made available from the Response Trust Fund to bolster the health study efforts being made at hazardous substance facilities by the Department of Health and Human Services and to the states to assist in these activities, as well as conduct similar activities, at sites not on the National Priority List.

e. *Hazard Ranking System.*—EPA should be directed to modify the Hazard Ranking System to allow additional emphasis to be placed on the environmental damage a release of hazardous substances has caused or can cause, as well as the threat to public health and welfare. Sites at which severe destruction of ecosystems has occurred, but where the threat to the public is limited, should still be eligible for inclusion of the National Priority List.

f. *50% State Match.*—The 50% State match requirement for response actions at sites owned or operated by the State or political subdivision thereof should be changed to 10%, as with all other sites.

g. *Operation and Maintenance Costs.*—Authority should be granted for the Response Trust Fund (or alternately the Post-Closure Liability Fund) to be used to support operation and maintenance activities at a site after remedial actions have been taken. Time limits for operation and maintenance should be established and a 10% State match requirement could be used to help defray the cost of these activities to the Fund.

Several areas in Monroe, Lawrence and Owen Counties in Indiana are grossly contaminated with waste PCB oil. Three Monroe County PCB sites are on the National Priority List. Fat tissue samples from fish and cattle have shown that bioaccumulation is a concern. State and local officials are conducting residential surveys to attempt to determine what percentage of the population in the Bloomington, Indiana, area has come in contact with PCBs as the waste is so widely spread. Sites such as these, where cleanup costs can easily reach the 50-60 million dollar range, are the difficult ones to resolve. Because the money in the CERCLA Trust Fund is inadequate to address this magnitude of a cleanup, it is addressed by enforcement.

APPENDIX A—SOCIO-ECONOMIC CHARACTERISTICS SEYMOUR, JACKSON COUNTY, IN

	Population		Percent change
	1970	1980	
Seymour	13,352	15,050	12.7
Jackson County	33,187	36,523	10.05

Ethnic (Seymour, 1980)

White	14,806
Black	120
Hispanic	95
American Indian, Eskimo and Aleut	28
Asian and Pacific Island	69
Other	27

HOUSING UNITS (SEYMOUR)

1970	1980	Percent change
4,631	5,977	29.1

ECONOMIC STATISTICS (JACKSON COUNTY)

		Percent of State
Per capita personal income, 1981	8,905	91.55
Per capita money income, 1977	5,256	91.34
Number of families with income below the poverty level, 1980: Jackson County	806	.75
Value of all property, 1980 dollars: Jackson County	181,678.8	.69

BUSINESS ACTIVITY (JACKSON COUNTY)

Retailing 1977:		
Number of establishments	343	.79
Sales (dollars)	120,123	.66

BUSINESS ACTIVITY (JACKSON COUNTY)—Continued

Wholesaling 1977:		
Number of establishments	50	.56
Sales (dollars)	109,144	.43
Manufacturing 1977:		
Number of establishments	71	.88
Number of employees	4,100	.58
Average weekly earnings		
First quarter 1982 (dollars)	264.24	64.27

EMPLOYMENT (JACKSON COUNTY)

	1982 annual	September 1983
Labor force	18,350	17,350
Number employed	15,525	15,525
Unemployment rate (percent)	15.40	10.50

Land area (Jackson County, 1980): 514 square miles, 1.43 percent of State.
Population per square mile (Jackson County): 71.1, 46.50 percent of State.
Number of farms (Jackson County 1978): 1,099, 1.24 percent of State.
Land in farms (acres) 1978: 220.715, 1.3 percent of State.
Education data (Jackson County): (persons 25 and over):
High school (1970)—1-3 years, 3,639; 4 years, 6,559.
College (1970)—1-3 years, 1,130; 4 years 552; 5 or more 414.

Health facilities (Jackson County)

Number of hospitals 1982	1
Number of doctors 1980	27
Number of dentists 1976	15

APPENDIX B—SEYMOUR RECYCLING CORP. LIST OF PEOPLE INVOLVED

	Agency	Division	Function
Name:			
Balvant Patel	Indiana State Board of Health	Laboratory	
Dave Barna	do	Water Pollution Control Division	
Joseph Krieger	do	do	
Ron Lauritsen	do	do	
Earl A. Bohner	do	do	Director.
Joseph Snyder	do	do	
Patrick Stevens	do	do	Acting Chief.
Samuel Via	do	do	
Robert Ondrusek	do	Industrial Waste Section Air Pollution Control Division.	Director.
Perry Miller	do	Stream Pollution Control Board	Technical Secretary.
Jim Hunsicker	do	Land Pollution Control Division	Inspector.
Hugh Hazelwood	do	Solid Waste Management Section	Do.
Tom Linson	do	Land Pollution Control Division	
Dewey Rissler	do	Water Pollution Control Division	Plan review.
W.T. Paynter, M.D	do	State Health Commissioner	
Jim King	do	Solid Waste Management Section	Inspector.
Dave Shipe	do	Water Pollution Control	Do.
Al Lao	do	do	Plan review.
John Applegate	do	do	Inspector.
Tim Kelley	do	Land Pollution Control Division	Do.
Mike Esarey	do	Water Pollution Control Division	Supervisor.

APPENDIX B—SEYMOUR RECYCLING CORP. LIST OF PEOPLE INVOLVED—Continued

	Agency	Division	Function
Marv Eggleston	do	Solid Waste Management Section	Inspector.
Joe Stalismith	do	Water Pollution Control Division	Supervisor.
Chester C. Canham	do	Sanitary Engineering Division	Director.
Pat Allen	do	Solid Waste Management Section	Inspector.
Timothy Berg	do	Industrial Hygiene Division	Laboratory
L. Robert Carter	do		
John Doss	do	Air Pollution Control Division	Supervisor.
Marvin Eggleston	do	Solid Waste Management Section	Sanitarian.
Mark Herbert	do	Water Pollution Control Division	Inspector.
Oral H. Hert	do	Stream Pollution Control Board	Technical Secretary.
George Halloran	do	Water Pollution Control Division	Inspector.
James Hunt	do	Land Pollution Control Division	Do.
James King	do	do	Technical review.
Virgil Konopinski	do	Industrial Hygiene Division	Director.
David D. Lamm	do	Land Pollution Control Division	Do.
Al Lao	do	Water Pollution Control Division	Technical review.
Livia Laurenzano	do	Industrial Hygiene Division	
Gregg Lemasters	do	Water Pollution Control Division	Inspector.
Helen Liebrich	do	Solid Waste Management Section	Do.
Gary Lindgren	do	Land Pollution Control Division	Do.
David Peterson	do	Industrial Hygiene Division	Laboratory.
Steven Poe	do	Land Pollution Control Division	Inspector.
J. Rayuck	do	Industrial Hygiene Division	Laboratory.
James Reynolds	do	Solid Waste Management Section	Inspector.
Karyl Schmidt	do	Land Pollution Control Division	Geologist.
David Shipe	do	Water Pollution Control Division	inspector.
Andrew Sunderland	do	Air Pollution Control Division	Do.
K. Verma	do	Solid Waste Management Section	Do.
Charles Wilson	do	Air Pollution Control Division	Do.
Richard Zeiler	do	do	Laboratory
Lon Brumfield	do	Water Pollution Control Division	Technical review.
Robert Downey	do	Land Pollution Control Division	Geologist.
Karen E. Evans	do	do	Supervisor.
Terry F. Gray	do	do	Inspector.
Larry Kane	do	Water Pollution Control Division	Supervisor.
James A. Knoy	do	Land Pollution Control Division	Inspector.
Joseph D. Shafter	do	do	Chemist.
Karyl Schmidt	do	do	Supervisor.
Woodard Smith	do	Air Pollution Control Division	Do.
Steven Wakefield	do	Land Pollution Control Division	Inspector.
George Dayhuff	do	Solid Waste Management Section	Do.
Johnie Baker	do	do	Do.
Richard Kraft	do	do	Do.
Roland P. Dove	do	do	Supervisor.
Harry Williams	do	Air Pollution Control Division	Director.
Guinn Doyle	do	Land Pollution Control Division	Supervisor.
Ed Stresino	do	Air Pollution Control Division	Do.
Joseph Matouk	do	do	Inspector.
Lane A. Ralph	Senator Lugar's Office	Special Projects Assistant	
Joseph V. Corcoran	State of Indiana		Senator.
William C. Goodwin	do	State Fire Marshal	
Ralph C. Pickard	Environmental Management Board		Technical Secretary.
Patrick Berger	Governor's Office/Indiana State Board of Health.	Administrative Assistant/Consultant	
Earl F. Ford	State Fire Marshal		Chief Inspector.
Harry J. Watson	Indiana Attorney General		Attorney.
Michael Schaefer	Attorney General's Office		Assistant Attorney General.
Steve Zlatos	do	Deputy Attorney General	
Theodore L. Sendak	State of Indiana	Attorney General	
Bruce Whitten	Chem-Dyne		President.
Bob Cleek	Seymour Recycling Corp		Employee.

APPENDIX B—SEYMOUR RECYCLING CORP. LIST OF PEOPLE INVOLVED—Continued

	Agency	Division	Function
Terry Tatlock	do		Do.
Millard Moore	do		Do.
Lawrence McClellan	do		Do.
Bruce Loose	do		Do.
K.H. Goodwin	do		President (until 1978).
William Kovacs	do		President (1978 to present).
Bruce A. Whitten	do		Vice-President.
Mike Gill	do		Sales Representative.
Willis Hobson	Seymour Manufacturing Co		President.
Harry Warren	Seymour Recycling Corp		
Stanley Birge	do		Owner.
Clifford Birge	do		Do.
Scott Bowman	do		Chemical Engineer.
Ed Callis	do		Manager.
Bob Riggs	do		Plant Manager.
John T. Gregory	Seymour Manufacturing Co		Manager.
Ernie Bowman	Seymour Recycling Corp		Employee.
Wayne Bush	do		Do.
Ken Hazlewood	do		Do.
Jim Hazlewood	do		Do.
Lanny Reynolds	do		Do.
Roger Horton	do		Do.
Harry Warren	do		Do.
Bob Lyttle	do		Do.
Larry Bias	do		Do.
Bob Stevens	do		Do.
Jim Zike	do		Do.
Brad Barron	do		Do.
Sam Thompson	do		Do.
Mark Fee	do		Do.
Stanley J. Birge	do		Board of Directors.
Stanley J. Birge, Jr	do		Do.
Clifford A. Birge	do		Do.
Edmond T. Allen	do		Do.
Harold S. Hobson	do		Do.
Harold S. Hobson, Jr	do		Do.
Willis S. Hobson	do		Do.
David L. Millas	do		Do.
R.P. Deschner	do		Technical Consultant.
William L. Kovacs	do		President.
Thomas J. Lantz	do		Attorney.
John Hall	do		Property Manager.
Mike Ringstrom	do		Chief Chemist.
Scott Bowman	do		Chemical Engineer.
Joe Pittman	do		Foreman.
Dennis Sterling	do	Transportation	Coordinator.
Stan Dixon	do		Parts Manager.
Dave Hess	do		Accountant.
Ron Sorenson	do		Plant Manager.
Jim Martin	do		Incinerator Operator.
Bob Riggs	do		Acting Manager.
Charlie Clay	do		Manager.
Darin Green	do		Chemist.
Sam Thompson	do		Employee.
Edward A. Pollen	do		Attorney.
Bill Vance	do		Receiver.
Betty Quigley	do		Office.

APPENDIX B—SEYMOUR RECYCLING CORP. LIST OF PEOPLE INVOLVED—Continued

	Agency	Division	Function
John Gilbert	U.S. EPA		Engineer.
Charles Grigalauski	U.S. EPA, Region V	Waste Management	Geologist.
Tom Yeates	do		
Ken Fenner	do		
Richard Bartlet	do		
Pete Olsen			
Ralph Coons	do		On-Scene Coordinator.
Richard Shandross	do		
Beverly Kush	do		On-Scene Coordinator.
Larry Kyte	do		Assistant Regional Counsel.
Richard E. Bartelt	do		
Robert Hartian	do		Media Services.
Gregory A. Vanderlaan	do	Environmental	Chief Emergency Section.
Charles Castle	do		On Site Coordinator.
Sandra S. Gardebring	do	Enforcement	Director.
Anthony Leffin	U.S. EPA		State Coordinator.
Tom Pachowicz	do		Contractor Judge.
Robert Brown	Jackson Circuit Court		Judge.
Gary Hukill	City of Seymour	Sewage Treatment	Operator Plant.
Ron Lambring	do		Attorney.
William W. Bailey	do		Mayor.
Christopher Moritz	do		Do
Lindsey Mankiller	Seymour Police Department		
Rick Steward	Seymour Wastewater Treatment Plant.		Operator.
Don Heiwig	Freeman Field Airport	Manager	
Dennis Baloq	Seymour Chamber of Commerce Task Force.		
John Bottoroff	do		
Bill Knott	do		
Ken Montgomery	do		
Wayne Proell	do		
Joe Peganoff	do		
Jack Rogland	do		
Nancy Clark	do		
John Sprenger	Airport		Manager.
Rod Ludwig	Ludwig Engineering		
Dale Bowman	do		
LaDonna Vaughn	do		
Bob Gatte	Jackson County Health Department	Inspector	
Ken Kavanaugh	do	do	
George Jones	do		
Leroy Crees	do		
Al Edwards	Occupational Safety and Health Administration.	do	
John Hermanson	do		
Marjorie Nash	League of Women Voters	President	
Judy Smith	do	Chairman	
Sally Crouch	do		
Mary Vehsloge	do		
Lt. Pat Hoopes	U.S. Coast Guard		
Lt. Dave Innis	do		
Capt. Matthew Woods	do		
Comm. Ralph Anderson	do		
Comm. Jerry Willis	do		
Lt. David Innis	do		
Lt. Comm. Alejandro	do		
James A. Kesel	U.S. Fish and Wildlife Service		

APPENDIX B—SEYMOUR RECYCLING CORP. LIST OF PEOPLE INVOLVED—Continued

	Agency	Division	Function
Dick Bowman	Federal Bureau of Investigation		
Tom Bruns	Department of Natural Resources		
Lee H. Hamilton	U.S. House of Representatives		Congressman.
Diana Newson	Cummins Engine Co		
Carl O. Garrett	Garrett Landfill		
Gene Gartland	Chemical Waste Management		Project Manager.
John Renkes	do		
Keith Pushaw	do		
Larry Gindville	do		
Vicki Pollert	do		
Matt Rodek	do		
Dean Ramsey	do		
Gene Gartland	do		
James E. Koenig	do		
Jim Nothnogel	do		
Judy Rosenbeck	Waste Management		
John Hlaraclk	Chemical Waste Management		Contractor.
James L. Kirk	O.H. Materials		
George Vandervelde	do		
Roberto F. Weiss-Malik	Canonie Environmental Services Corp.		
David Mizell	Environmental Science and Engineering.		
Ken Frato	Environmental Research-Management K-V Associates.	Consultant	
Neil Drobny	do	do	Consultant
Joe Petrilli	Ecology and Environment		
Glen Cekus	do		
Clarence Pieze	do		
Bill Goode	do		
Allen E. Hokanson	AHCO Engineering	Seymour Recycling Corp. Consultant	
Ralph Hosler	W.W. Sly Manufacturing	Sales Representative	
Jimmy Roan	Oil, Chemical & Atomic Workers Union.	Representative	

APPENDIX C—SUMMARY OF SUPERFUND ACTIVITIES

HAZARDOUS WASTE LAND DISPOSAL TAX

The Hazardous Waste Land Disposal Tax, Chapter 6.6, IC 6-6, was enacted by the General Assembly to provide funding for the cleanup of abandoned hazardous waste disposal sites. This tax, which is a listed tax under IC 6-8.1, imposes on hazardous waste disposal facilities an assessment of $1.50 for every ton of hazardous waste which is land-disposed at that facility. The revenues produced by the levy are collected by the Indiana Department of Revenue on a quarterly basis. One dollar of each $1.50 collected is deposited in the Hazardous Substances Emergency Response Trust Fund established under IC 13-7-8.72, and the remaining $.50 is paid over to the General Fund of the county in which the disposal facility is located.

The first year (tax for calendar year 1982) total revenues resulting from the tax are $369,630.61.

An average cost for a Superfund cleanup is $6,000,000. The State is required to pay 10 percent or 50 percent of that cleanup depending on whether the site is privately owned or owned by a subdivision of the State government. The Federal and State Superfunds are used only if the responsible party is recalcitrant. The chart below lists CERCLA (Comprehensive Environmental Response, Compensation and Liability Act of 1980) sites that are on the National Priority List and projected costs anticipated for the State.

COST SUMMARY OF THE SITES ON CERCLA NATIONAL PRIORITY LIST

	Percent	Amount
Environmental Conservation Corp. (ECC) (Enviro-Chem Corp.) Boone County:		
Fisher-Calo, LaPorte, IN	10	$600,000
Lake Sandy Jo, Gary, IN	10	600,000
Lemon Lane Dump Bloomington, IN	50	3,000,000
Main Street Well Field, Elkhart, IN	0	0
Marion (Bragg) Dump, Marion, IN	10	600,000
Martell Ninth Avenue Dump, Gary, IN	10	600,000
Midco I (subsurface), Gary, IN	10	600,000
Neal Landfill, Bloomington, IN	10	600,000
Parrot Road Dump, New Haven, IN	10	600,000
Seymour Recycling (surface water), Seymour, IN	50	20,000
Wayne Waste Oil, Columbia City, IN	0	0
WedZeb Enterprises, Lebanon, IN	0	0

The following list of sites were submitted May 27, 1983, to EPA for the National Priority List [NPL] Update. If all of these sites are accepted by EPA, Indiana will have 18 sites on the NPL, which is a qualification for Superfund Remedial Cleanup:

	Percent	Amount
Sites submitted to National Priority List:		
American Chemical Service, Griffith, IN	50	$3,000,000
Bennett Stone Quarry, Bloomington, IN	0	0
Northside Landfill, Boone County	10	600,000
Poer Farm Dump, Hancock County	0	0
Reilly Tar and Chemical Corp., Indianapolis, IN	0	0

	Federal money spent	State money spent
Midco I	$1,000,000	Inkind
Seymour	2,500,000	(1)
ECC	198,000	Do.
Poer Dump	80,000	Do.
Bennetts Stone Quarry	225,000	Do.
Lemon Lane	[2] 23,500	Do.

[1] $6,000 was matched against an equal amount of Federal money for improvements to the Seymour Surface Water Treatment System.
[2] Fence.

SEYMOUR RECYCLING CORP. SEYMOUR, IN

Seymour Recycling Corporation is an approximate 14-acre site located in Freeman Field Industrial Park, about two miles from the center of Seymour, Indiana. The facility is an abandoned industrial waste relamation operation. Approximately 60,000 drums and 98 bulk storage tanks containing wastes such as solvents, phenols, cyanides, acids, and C-56 were left on-site. Hundreds of small containers of hazardous materials, primarily from laboratory operations, were also found on-site. Some of them, such as ether, are highly explosive. Studies performed off-site indicate contamination of the soil and groundwater.

Operations began at the site in 1969, when the Seymour Manufacturing Company moved its Chemical Divisions to land it leased at Freeman Field. In June, 1976, the Chemical Division was incorporated into Seymour Recycling Corporation under the ownership of the owners of Seymour Manufacturing Company. In 1978, the site was sold to Environmental Processing Corporation. Because of numerous permit violations, the site was shut down by the State in February, 1980.

The U.S. Environmental Protection Agency [EPA] undertook emergency actions at the site beginning in March, 1980, using Section 311 of the Clean Water Act.

These actions included: installation of a dike around the site; installation of a carbon filter unit to treat surface water on-site; sampling and testing of drums, tanks, soil, and water; restaging of approximately 45,000 drums to more secure areas; installation of security fencing; cleanup of a spill of 3,000 gallons of chromic acid; and removal of liquids from the bulk storage tanks. During this time, two waste generators removed wastes from the site.

A Federal civil action in U.S. District Court seeking injunctive relief has been brought by the Department of Justice on behalf of EPA against responsible parties associated with this site. In October, 1982, EPA negotiated a $7.7 million agreement with 24 generators to undertake a surface cleanup at the site.

This is the top priority site in Indiana and on the Interim Priority List of 160 sites.

The current surface cleanup activities are progressing quite well despite some problems at start up. Approximately 40,000 of the drums have been staged and/or removed. The U.S. EPA has recently installed portable treatment units to temporarily lower standing surface water. A permanent solution to the surface water problem has not been determined.

Cleanup action is progressing pursuant to the negotiated plan. A new drum crushing pad has been installed. Despite heavy rains, the temporary surface water treatment unit, installed by the U.S. EPA has kept the water down such that a minimum of work time was lost to weather. The State and U.S. EPA are currently redesigning the existing treatment system. Meetings have been held recently to initiate the subsurface contamination study.

NEAL'S LANDFILL, BLOOMINGTON, IN

Neal's Landfill is located directly north of State Highway 48, approximately 4.5 miles west of Bloomington, Indiana. The site was used as an industrial and municipal waste landfill from 1950 to 1972. It covers about 40 acres, with the main fill area approximately 300 by 150 yards.

The landfill is situated over fractured karst limestone. There are a number of springs which surface near the site and flow 0.8 miles to Richland Creek, a tributary of White River. Recently, the landfill has been used as pastureland for beef cattle.

During parts of 1966 and 1967, capacitors and arrestors filled with polychlorinated biphenyls [PCB's], as well as PCB-contaminated capacitor insulation material, rags, and filter clay, were disposed of at Neal's Landfill. Presently, capacitors and other contaminated materials are visible on the surface.

Available data show high concentrations of PCB's in the surface soils in the northeast portion of the landfill. PCB's have been found in water samples from the springs near the site and in sediments of Richland Creek. Analysis of a fat sample from a calf that had grazed on the site indicated 65 parts per million of PCB's.

This site was on the Interim Priority List of 160 sites.

On January 4, 1983, the U.S. Department of Justice filed suit against Westinghouse Corporation for cleanup of Neal's Landfill in Monroe County and Neal's Dump in Owen County. The State of Indiana is a party to this suit as an intervening plaintiff. A date for the trial has not yet been set, but is anticipated for the fall of 1983. State and Federal activities at this time are directed toward preparation for the legal proceedings.

Staff are continuing to work with the Indiana Attorney General's Office in preparation for the lawsuit. Discovery was served on the State of Indiana by Westinghouse in June. Depositions from Indiana State Board of Health employees are scheduled during August.

MIDCO I, GARY, IN

The Midwest Solvent Recovery Company, commonly reffered to as Midco I, was located at 7400 West 15th Avenue, Gary, Indiana. Operations began at the site in April, 1975. In addition to storing and reclaiming thousands of drums of hazardous wastes, the Company apparently dumped sludges and other wastes into a pit on the site. On December 21, 1976, a fire destroyed more than 14,000 drums on the site, essentially halting the operation. Subsequently, operations were renewed at the site in late 1977.

Several thousand drums containing materials such as paint sludge, solvents, acids, caustics, and cyanides were left stored on-site, many of them leaking and deteriorated. The drums which were burned in the 1976 fire also remained on-site.

Midco I is located in a lowland area, with wetlands to the north and east. Studies of the area have shown contamination of the surface water, groundwater, and soils.

Using funds available under Section 311 of the Clean Water Act, the U.S. Environmental Protection Agency [EPA] erected security fencing around the site in June, 1981. In February, 1982, EPA undertook a Planned Removal Action to remove the wastes and approximately one foot of soil from the site, and place a temporary clay cap on the site, thereby alleviating the threats of fire, explosion, and human contact. The removal action took over four months to complete and cost nearly $900,000. Before specific remedial actions can be determined, additional investigatory work will be required to (1) ascertain if wastes are buried on the site, and (2) determine the full extent of contamination of the soil, groundwater, and the wetlands.

Federal civil action was filed in U.S. District Court seeking an injunction against responsible parties associated with this site.

A draft Remedial Action Master Plan [RAMP], which addresses the remaining (subsurface) contamination, has recently been completed by U.S. EPA contractors.

The draft RAMP has been reviewed with comments submitted to the U.S. EPA. Leachate has currently been observed leaving the site.

ENVIRONMENTAL CONSERVATION & CHEMICAL CORP., BOONE COUNTY, IN

Environmental Conservation and Chemical Corporation [Enviro-Chem] is a abandoned waste storage and recycling business in Boone County, 865 South U.S. 421, Zionsville, Indiana. This facility was in operation from August, 1977, to May, 1982, and is adjacent to the Northside Sanitary Landfill.

Operations at this facility involved the recovery of solvents and oils from industrial sources. On-site storage practices resulted in an inventory beyond that needed to maintain recycling operations. On one occasion, this excessive inventory resulted in an overflow of contaminated rainwater from a holding pond into an unnamed ditch which flows into Finley Creek, causing an oil sheen on Finley and Eagle Creeks. Storing drums in the open and without an impermeable base has caused some drums to deteriorate. Three organic solvents (1,1-dichloroethane, trichloroethene, and 1,1,1-trichloroethane) were found in groundwater samples taken from on-site wells during July, 1981.

Operations at Enviro-Chem have ceased under a Court Order obtained by the Indiana Environmental Management Board on May 5, 1982. The facility is presently under receivership. Over 242,000 drums and 1,500,000 gallons of waste remain onsite as of June, 1982.

However, emergency action had to be taken in May, 1983, to treat contaminated surface water that was threatening the water quality of area streams. The surface water was emanating from a drum storage area. The emergency (Immediate removal under CERCLA and 100 percent Federally funded) action continued for several weeks.

The contaminated surface water was treated by utilizing sand and an activated carbon filter before being discharged to the Indianapolis Sewer System.

In July, 1983, immediate removal actions began at Enviro-Chem to remove all waste drums and tank wastes. In addition, wastewater and some soil will be removed.

A remedial investigation/feasibility study began in February, 1983. This study will help determine the extent of subsurface contamination.

LEMON LANE LANDFILL, BLOOMINGTON, IN

Lemon Lane Landfill is a seven-acre disposal site owned by the City of Bloomington, Indiana. The site, which has no liner or runoff controls, contains unstabilized wastes and piles of capacitors containing polychlorinated biphenyls [PCB's]. The soils are thin and irregular. Residents in the immediate vicinity use groundwater from an underlying aquifer.

The site is located in the northeast quarter of Section 31 of Bloomington Township, on the western edge of the city, off Lemon Lane Road. From 1950 to 1964, the city disposed of both municipal and industrial wastes. Allegedly, the wastes were incinerated on-site. No records were kept of the types or quantities of wastes disposed.

Of primary concern are piles of exposed capacitors on the south and west sides of the landfill. Many are leaking and have contaminated underlying soils. Levels of PCB's in the soils range from 1,500 to 57,000 parts per million.

The Indiana State Board of Health and the U.S. Environmental Protection Agency [EPA] have sampled several times in the past two years. To date, no PCB's have been detected in nearby residential wells, nor have any surface discharges been observed. However, given the geology of the area, it is possible that groundwater contamination may occur.

No containment or cleanup actions have been taken at the site. The landfill is an open area and children play on the site. The City of Bloomington is working with EPA to erect a security fence around the site.

A second 90-day stay in the current suit involving Westinghouse Corporation and the City of Bloomington is nearing its end in mid-April. The stays in the suit have been entered into to allow Westinghouse Corporation and Bloomington to conduct studies of this site and the PCB contaminated wastewater treatment plant in an attempt to arrive at an acceptable joint solution for the two sites. The U.S. EPA has contracted for preparation of a Remedial Action Master Plan [RAMP] due May 16, 1983, and a responsible party search to be completed by May 10, 1983.

A security fence was erected around the site during the first two weeks of July. The fence was installed as an Immediate Removal Action under CERCLA by the U.S. EPA, so 100 percent Federal funds were used for the construction costs. Since Lemon Lane is a publicly owned (50 percent cost share) site, 50 percent State matching funds for the fence may be required in the future. A State match for this type of action would only be required if and when the State and EPA enter into a Remedial Action Cleanup contract.

On July 5, 1983, staff received a draft RAMP prepared by CH_2M Hill for review and comment.

MAIN STREET WELL FIELD, ELKHART, IN

The Main Street Well Field is the largest of three municipal Fields which supply potable water for the City of Elkhart, Indiana. Of 21 production wells in the three fields, the Main Street Well Field has 15, representing approximately 70 percent of Elkhart's potable water supply.

The Main Street Well Field functions as a recharge pond system. The Christiana Creek flow is diverted to numerous ponds which recharge the shallow water table aquifer. Water table levels, varying throughout the year from 8 to 15 feet, are close to the surface. The unsaturated and saturated zones consist of coarse sand with some gravel and little clay; the top 8 to 10 feet is fill material with a thick clay layer at approximately 58 feet. All production wells are completed above this clay layer. Infiltration from the ponds is rapid, resulting in 800 gallons per minute capacity per well. Though the St. Joseph River is the main discharge point for the area, most of the groundwater in the well field discharges to Christiana Creek.

Trichloroetene [TCE] has been detected in five of the 15 production wells. Four monitoring wells show concentrations ranging from 50 to 880 micrograms per liter. The contamination was discovered in April, 1981, with sample analyses ongoing through 1982.

The City of Elkhart has implemented several measures to reduce TCE levels in the immediate vicinity of the well field. Recharge ponds have been cleaned and capacity increased, and various flow control measures, including shutdown of specific production wells most adversely affected, have been taken. Two barrier wells have been installed to prevent the movement of TCE into this well field.

The industries that have been targeted as possible responsible parties are currently funding a study of the subsurface contamination. The first set of sample results concerning the subsurface contamination has been received and is under review by ISBH staff. The City is continuing to monitor the water.

The study being conducted by the possible responsible parties is in active progress. Areas of contamination are being identified, however, more tests are necessary before any cleanup action can be accomplished.

WAYNE WASTE OIL, COLUMBIA CITY, IN

Wayne Waste Oil, a Division of Wayne Reclamation and Recycling, Inc., owns a 27-acre site in central Whitley County, Indiana. The site is located on Daniel Drive in Columbia City, population 5,000. From 370,000 to 1.4 million gallons of wastes have been disposed of on the property by open dumping on surface soils, into unlined pits, and into a trench. The site is bordered by residences and a lumber yard on the north and west sides, and a bend of the Blue River on the east and south sides. Three municipal wells are located within one-eighth mile northeast of the site.

The primary concern is the threat of groundwater contamination, given the waste amounts, disposal practice, and the proximity of the drinking water wells. There are open, leaking drums on-site, and waste areas which have been covered with sands, as evidenced by disturbed surface soils. Laboratory analyses indicate high levels of cyanides, lead, chromium, and cadmium.

On March 12, 1982, the State entered into an Agreed Order with Wayne Brockman to conduct an assessment study of the site and implement a cleanup of illegally disposed waste. On January 15, 1983, a contractor was chosen; on March 31, an assessment plan was approved. Site borings are to be conducted in early May. The completion of the assessment and recommendation for actions are anticipated for November 1, 1983.

Pursuant to the approved assessment study, four areas of the site have monitoring wells. Soil samples were taken at each well at five foot intervals. Excavation of suspected buried barrels will be the second phase, followed by soil borings across the site. Samples are being split with the State and a check laboratory.

On August 1, a drawdown test from the city's well was conducted to see if the aquifers in the disposal area were being pulled into the city wells. Results showed an effect of the well on the aquifer movement. Further analysis will be required.

FISHER-CALO, LAPORTE, IN

Fisher-Calo Chemicals and Solvents Corporation [Fisher-Calo] operated a solvents reclamation facility near LaPorte, Indiana, from late 1972 through mid-1978.

In July, 1980, a Federal civil suit in U.S. District Court seeking injunctive relief was brought by the Department of Justice on behalf of the U.S. Environmental Protection Agency against the owner and operator for disposal of drummed waste. The drums were excavated prior to the suit, and the Company has agreed to determine when contaminants, including 1,1-dichloroethene, trichloroethene, and tetrachloroethene, have dissipated.

The Federal government entered into a Consent Decree on August 4, 1982, with Fisher-Calo concerning groundwater contamination from buried still bottom residues. The Consent Decree requires Fisher-Calo to monitor five specified wells on a quarterly basis until the results are equal to or below the levels stipulated under Order VI-6 of the Consent Decree for three consecutive samplings. Fisher-Calo is currently implementing the quarterly sampling.

The spring quarter's monitoring results showed a substantial increase in contamination levels in the subsurface. EPA, Region V, will continue to require monitoring on a quarterly basis.

The summer quarter's monitoring results showed a level of contamination, higher than spring samples. Staff have requested a Remedial Action Master Plan be conducted at the earliest possible date.

MARTELL NINTH AVENUE DUMP, GARY, IN

The Ninth Avenue Dump is an abandoned 20-acre waste site located one-quarter mile east of Cline Avenue, on Ninth Avenue, in Gary, Indiana. The site is a relatively flat, partially filled area with marsh lands to the east and south. Operations at the dump began in 1973, and continued through September, 1980.

In 1975, the Indiana State Board of Health inspected the site and discovered 10,000 empty 55-gallon drums. As much as 500,000 gallons of industrial waste may have percolated into the groundwater. At present, 250 drums are badly deteriorated and leaking. Furthermore, there are six abandoned tank trucks on-site, as well as a suspected dump area containing liquid wastes and approximately 1,000 buried drums. The exact quantity and character of these wastes are unknown. Investigators have identified alkylated benzenes, including toluene and p-xylene, polynuclear aromatic hydrocarbons, phthaleate esters, and heavy metals.

Surface runoff from the site has been contaminating marshland surrounding the site, and entering a drainage ditch on the north side of the site. The predominantly sandy soils in the area indicate a high potential for groundwater contamination.

In an effort to alleviate potentially hazardous conditions, the U.S. Environmental Protection Agency negotiated a plan in which the site operator agreed to begin removing surface containers and specific areas of contaminated soil.

A Federal civil action in U.S. District Court seeking injunctive relief has been brought by the Department of Justice on behalf of EPA against responsible parties associated with this site.

A partial surface cleanup undertaken by a responsible party has been accomplished, but much more work needs to be done at this site. Federal action directed toward a voluntary cleanup by responsible parties is currently in process.

During an inspection in May, ISBH staff determined that very little cleanup has been accomplished under the Federal enforcement action because the responsible party has not obtained the necessary disposal permits. The State, presently, is considering disposal requests.

MARION (BRAGG) DUMP, MARION, IN

The Marion (Bragg) Dump was covered and closed in 1975. The 40-acre site, located near Central Avenue on the southeast edge of Marion, Grant County, Indiana, lies in a relatively flat area with the Mississinewa River within 200 yards.

The landfill was once an old gravel pit which was subsequently used for the disposal of various wastes. State reports indicate that the landfill received approximately 1,400 drums per month of various wastes for at least a two-year period. At least 30,000 drums, containing a variety of hazardous materials such as acetone, thinners, solvents, plasticizers, lead, and cadmium, may be buried.

Some leachate areas have been observed on the south side of the fill. The primary concern is the threat of groundwater contamination. Approximately 3,000 people live within a one-mile radius of the fill and draw their water from a groundwater aquifer 20 to 25 feed below the site. As yet, there are no reports of contaminated wells in the immediate area.

A draft Remedial Action Master Plan [RAMP] is being prepared for the site, and a completion date of June 22, 1983, is set. The RAMP will outline all available data, assess the potential threat which exists, and recommend actions. State will review the draft RAMP and provide comments to EPA for a RAMP finalization. A responsible party search has not occurred yet, as EPA remains working on their top priority sites.

On July 11, 1983, the RAMP was reviewed and submitted by staff to EPA for finalization.

WEBZEB ENTERPRISES, INC., LEBANON, IN

Wedzeb Enterprises, Inc., owns two warehouse facilities in Lebanon, Indiana, which were used to store capacitors, many containing polychlorinated biphenyls [PCB's] and insulating oils for subsequent distribution and resale.

On May 2, 1981, a fire occurred at the warehouse located at 415 West Pearl Street. The blaze destroyed the warehouse, which contained approximately 50,000 capacitors, and caused the release of PCBs and low levels of tetrachlorodizenzo-p-dioxin [ICDD] and tetrachlorodibenzofuran [ICDF] into the immediate environment. The PCB-contaminated warehouse debris was left on-site and remains on-site at the present time.

State and Federal investigators sampled the warehouse premises on several occasions, beginning on May 3, 1981. The majority of the samples obtained from the warehouse rubble contain PCBs in excess of 500 parts per million (ppm); with a level of 24,500 ppm recorded. TCDD and TCDF were detected, but in low concentrations (30 to 300 parts per trillion) that preclude adverse human health effects.

Investigators found evidence of low concentrations of PCBs in Prairie Creek at U.S. 52, Lebanon, and discovered that PCBs may have contaminated sludge from the Lebanon Sewage Treatment Plant via a basement drain in the warehouse. The drain has since been sealed.

On June 19, 1981, the Indiana State Board of Health requested that the principal owner of Wedzeb Enterprises, Inc., submit a proposal for cleanup and disposal. The situation was referred to the Indiana Attorney General's Office for appropriate action on October 29, 1981. To date, the site has not been cleaned up, nor have the PCB materials been properly disposed of. The site is neither secured nor posted. There is no protection from wind and weather infiltration.

The primary concern is the threat of groundwater contamination with PCBs. The site stands on silt loam soil with a sand and gravel aquifer approximately 100 feet beneath the surface.

The responsible party entered into a Consent Decree for cleanup actions to be taken at this site on August 27, 1982, in Boone County Circuit Court. The owner subsequently filed suit against his insurance company for failure to provide funds to be used in the cleanup. To date, no cleanup has been accomplished pending a decision by the U.S. District Court concerning the responsibility of the insurance company to provide coverage.

Staff met with Mr. Bill Daniels, owner-operator of the site, on July 6, 1983, to discuss preliminary plans for cleanup. Staff will be working closely with Mr. Daniels, Region V EPA, and Indiana Attorney General's Office in the development of an acceptable cleanup proposal for the site.

LAKE SANDY JO (M&M LANDFILL), GARY, IN

Lake Sandy Jo (M&M Landfill) is located in a southwest section of Gary, Lake County, Indiana, on a 55-acre tract in the area bounded by the Tri-State Highway (I-90/80) on the south; Wright Street on the west; West 25th Avenue on the north; and Jennings Street on the east. It was a large borrow pit from which fill material had been obtained to build the Tri-State Highway. For several years it was filled with water and known as Lake Sandy Jo. According to the present owner/operator, filling has been going on for 12 years, four of them under his ownership. The water has been pumped out, and only a small area of the original borrow pit (less than one acre) remains unfilled.

The site was used for the diposal of demolition wastes with no record of hazardous waste disposal. However, the present owner states that "midnight dumping" occurred frequently, and the site has been plagued by above- and below-ground fires. Investigators of the U.S. Environmental Protection Agency detected benzene, toluene, and tetrachloroethylene in groundwater and surface water. Groundwater contamination is the primary concern since the area is surrounded on all sides by houses, a number of which use private wells to supply all water. The total population served by groundwater within three miles of the site exceeds 5,000, with over 1,400 wells recorded in the area.

The U.S. EPA has contracted for the preparation of a Remedial Action Master Plan [RAMP], as well as a responsible party search. Contractor delivery date for these projects is April 25, 1983. Further State and Federal actions are pending completion and review of recommendations for remedial actions to be included in the RAMP.

Staff are awaiting receipt of a RAMP to be prepared by CH_2M Hill, a U.S. EPA contractor.

PARROT ROAD DUMP, NEW HAVEN, IN

The 70-acre Parrot Road Dump lies in a primarily rural area on Parrot and Hartzell Roads, New Haven, Allen County, Indiana. It was covered and closed in 1976. A ditch surrounding the site drains into the Maumee River, less than 0.5 miles from the site. A highway runs through the landfill, which is unfenced and easily accessible to the public.

The site was an open burning dump of considerable size at one time. It is believed that various wastes were buried on-site. The U.S. Environmental Protection Agency [EPA] has evidence that leachate from the site contains various organic chemicals, including tetrachloroethylene, trichloroethylene, 1,1,1-trichloroethane, benzene, fluorene, and hexachlorobenzene. Leachate has been observed flowing into the drainage ditch, and soils on-site are discolored.

The primary concern is the threat of groundwater contamination. The aquifer, located approximately 20 feet below the site, provides drinking water to nearby residents. A well 50 feet east of the site is contaminated.

Approximately 1,100 people live within three miles of the site and draw their drinking water from this aquifer.

The U.S. EPA has contracted for a responsible party search and preparation of a Remedial Action Master Plan for this site. Contractor delivery date for these projects is scheduled for May 30, 1983. The U.S. EPA will be utilizing data obtained during borings conducted at nearby sites March 22-25, to determine further actions. Analysis of the March borings has not been completed.

Further actions for this site are still pending on the results of the March 22-25, soil borings. The results from these borings are still not back. A responsible party search and a Remedial Action Master Plan for this site are also awaiting results of the borings.

CALUMET CONTAINER CO.—PLANNED REMOVAL, HAMMOND, IN

Calumet Container Company, a division of Steel Container Corporation was a drum reconditioning operation that began in the 1960's and terminated with a fire on April 21, 1982. During its operational lifetime, Calument Container recycled metal containers ranging in size from 55 gallon drums to 5 gallon pails along with various size fiber drums. The company property is located on both Indiana and Illinois land and is approximately 100 yards from a Wolf Lake channel extension and approximately 50 yards from Powderhorn Lake.

Since 1978, the Hammond Air Pollution Control department has been involved in litigation against Calumet Container in regard to groundwater contamination and the subsequent threat to Wolf Lake. A groundwater evaluation completed by Soil Testing Service in 1980, for the Illinois Attorney General's Office revealed the presence of Xylene, Toluene and Penolics, Cyanide and Manganese in both on- and off-site groundwater samples. The groundwater flow was determined to be in the direction of Wolf and Powderhorn Lakes. In conclusion, the report noted that the existing contaminents pose a threat to both Illinois and Indiana groundwater.

After the fire on April 21, the U.S. EPA responded to a request from the City of Hammond, the State of Indiana, and the State of Illinois to undertake clean-up of the facility if and when the owner of the facility proved incapable of effective clean-up action. The owner, John Jagiella, filed for bankruptcy as a result of the fire.

Initial investigation of the site by the Technical Assistance Team resulted in the sampling of a sludge tank and two tank trailers on site. Also, a site survey disclosed the presence of 69 trailers on site. The majority of the trailers were being used as storage for empty metal drums and fiber drums, however, several trailers contained full or partially full drums of liquids, solids, and sludges. Aeromatic hydrocarbons, xylene, adhesives waste oil, and lime were identified.

EPA undertook monitoring of clean-up operations. Beginning on Thursday, April 29, 1982, all scrap metal (from destroyed building) and empty containers were inspected for hazardous materials before being allowed to leave the site.

On May 10, 1982, Chemical Waste Management, ENRAC Division, was contracted under CERCLA to immediately perform emergency clean-up of liquids, solids, and sludges found in the sludge pit, chemical waste trap, septic tank, and various process tanks in the plant. Also several drums were to be vacuumed out.

On May 21, 1982, emergency action was completed and a total of approximately 5,500 gallons of liquid and 30 cubic yards of sludge was removed to CID for disposal. With the conclusion of this action, further action on Calumet Container was referred to the remedial section for appropriate response.

During July, 1983, staff finalized a three-way clean-up contract between U.S. EPA, Indiana, and Illinois. Indiana also finalized a contract between the State and Hammond which establishes payment of all Indiana costs by the City of Hammond.

The three-way contract limits total cleanup cost to $250,000, of which the Illinois-Indiana contribution will be ten percent.

BENNETT STONE QUARRY—IMMEDIATE REMOVAL, MONROE COUNTY, IN

Bennett Stone Quarry is located at the junction of SR 37 and SR 46 in Monroe County, approximately two miles northwest of Bloomington, Indiana. According to the property owner, capacitors, electrical components and other PCB associated wastes were dumped at the quarry in the early 1960's, where the capacitors were broken open for copper recovery, burned, and crushed by bulldozers.

An estimated 2-3 acre area is strewn by partially exposed capacitors, capacitor paper, arrestors, and other electrical component debris. The exposed area is adjacent to a stream which flows into Stout's Creek. In one location partially buried capacitors were observed in the bank of the stream.

The quarry is used frequently by university students and local residents for swimming as well as an open dump for trash and demolition debris. The site is not secured so the potential for direct contact is great. Surface water contamination has been documented. The potential for groundwater contamination is also of concern due to the Karst geology of the vicinity.

During June and July, 1983, the U.S. EPA conducted an Immediate Removal Action at the site. During this action, 270 capacitors and approximately 30 cubic yards of contaminated soil were removed for off-site disposal. Extent of contamination studies were also conducted which revealed that the subsurface PCB contamination remaining was beyond the scope of final clean-up under an Immediate Removal Action. The site was fenced and a clay cap installed to prevent surface runoff and groundwater infiltration until a final site remedy can be determined under remedial action.

Staff have submitted the site to EPA for consideration for inclusion in the National Priorities List.

The Poer Property is located at 1050E and 400N in Hancock County, Indiana; since 1973, approximately 260 fifty-five gallon drums were on the 5 acre site. The waste was generated by Inmont Corporation of Cincinnati, Ohio, as "off-grade products." It was alleged that the farm property was intended for inventory storage and the barn for mixing or reformulation.

Materials on site were paint, shellac and thinner or solvent. The drums were in a state of deterioration and several were leaking. Analysis indicates the material was a RCRA hazardous waste because of ignitability (85° F. flash point). There was also indication that the waste had elevated levels of Chromium and lead which, coupled with the low flash point, could potentially result in an adverse public and environmental situation.

During June 13–24, all on-site barrels were staged, sampled, and removed from site for disposal. Soil was removed to a depth of six inches with clay soil being installed. Soil sampling at six and 18-inch levels were conducted along with local well water. The analysis of all sampling results will determine the future strategy of actions for the site.

APPENDIX D—SUMMARY: PROGRAM SUPPORT REQUEST

The 1982 General Assembly of the State of Indiana adopted Senate Concurrent Resolution 60 which established an interim study committee called the "Committee to Evaluate Indiana's Solid and Hazardous waste Management Program." This committee has been charged to evaluate the Indiana Environmental Management Board and its supporting staff from the Indiana State Board of Health for proper management structure and adequate resources. Staff has, upon request, testified to this committee and has provided budgetary information to define the needs of the Solid and Hazardous Waste Management Program.

Information is attached showing two levels of funding and what types of activities will be supported by each budget. The current budget for Federal fiscal year 1984, which runs from October 1, 1983, through September 30, 1984, is $2,298,502 ($1,451,000 Federal and $847,502 State). The State allotment decreases in 1985 by $67,934 to $779,568. The Federal allotment will probably remain at basically the same level. What this means is that the Division of Land Pollution Control budget is suffering losses for 1985 at the same time that programmatic demands on staff are increasing. An authorized hazardous waste program must be in place and operating by January 26, 1985. The Bare Minimum Budget expresses that level of funding that will allow the Division of Land Pollution Control to develop a program that will only meet the minimum levels necessary in order to have the program delegated to the State from the U.S. EPA.

However, the level of protection that citizens receive will be low. Major hazardous waste facilities will be inspected at a minimum frequency. Abandoned hazardous waste sites will not be addressed and there will be no State Superfund program. Increased reliance upon a limited EPA Superfund program and staff will be necessary. Staff is aware that sufficient Federal program support to remedy all Indiana Superfund problems is non-existent. The Solid Waste Management Program will continue to be impacted as small quantities of hazardous waste are shifted to State "permitted" facilities. The frequency of conventional waste landfill inspections will not be able to increase sufficiently to adequately address the hazardous waste program impacts. Enforcement for all programs will decrease because of lack of sufficient staff. Laboratory turn around time will continue to be lengthy. As an example, there were no groundwater monitoring well samples taken from licensed sanitary landfills this past year (as a cross-check by the State) because the agency laboratory did not have the resources to complete the analyses.

The Functional Hazardous Waste Budget will provide the Division of Land Pollution Control with the resources necessary to perform the tasks as described in the attached budget work papers. Staff is confident that at this funding level (161 Division of Land Pollution Control positions), the citizens of Indiana would receive an adequate Solid and Hazardous Waste Management Program.

Attachments.

Hazardous Waste Budget (Bare Minimum) [1]

Total funding needed to support 107 positions	[2] $3,383,549
Federal projected	1,451,000
Projected State funding needed	1,932,549
State funding available fiscal year 1985	779,568
Shortfall	[2] 1,152,981
Total (including space rental)	[3] 1,334,781

[1] Authorized hazardous waste management program must be in place and operating by January 26, 1985.

[2] Does not include the cost of needed additional space.

[3] Additional space calculated at $1,800 per person (includes phones, desks, chairs, etc.) (101 × $1,800 = $181,800).

Assumptions for this budget:

1. Major Hazardous Waste facilities inspected once per year.
2. Permits issued on 5-year renewal basis.
3. Small quantity generator exclusion remains at 1,000 kg/mo.
4. No manifest tracking system (flow through agency).
5. No expansion of CERCLA effort, "abandoned" or old waste disposal sites (facilities) e.g. more effort and activity will be carried out by U.S. Environmental Protection Agency.
6. No expansion of solid waste effort, activity remains at current levels (inspection frequency, groundwater monitoring efforts, illegal dump, investigations and inspection of pits, ponds, lagoons).
7. Requests for laboratory analysis, well water, enforcement or RCRA samples remain at current levels, (approximately 580 samples per year—which does not include existing monitoring wells at sanitary landfills).

Functional Hazardous Waste [1]

Total funding needed to support 116 positions	[2] $5,033,090
Federal projected	1,451,000
Projected State funding needed	3,582,090
State funding available fiscal year 1985	779,568
Shortfall	[2] 2,802,522
Total (including space rental and contractural laboratory support)	[3] 4,581,522

[1] Authorized hazardous waste management program must be in place and operating by January 26, 1985.

[2] Does not include the cost of needed additional space.

[3] Additional space calculated at $1,800 per person (includes phones, desks, chairs, etc.) (155 × $1,800 = $279,000).

Assumptions for this budget:

1. Major Hazardous Waste facilities inspected routinely.
2. Permits issued on 5-year renewal basis.
3. Small quantity generator exclusion remains at 1,000 kg/mo.
4. No manifest tracking system (flow through agency).
5. No expansion of CERCLA effort, "abandoned" or old waste disposal sites (facilities) are addressed, State assumes more of a lead role.
6. Expansion of solid waste effort. (Inspection frequency, groundwater monitoring efforts, illegal dump, investigations and inspection of pits, ponds, lagoons).
7. Requests for laboratory analysis, well water, enforcement or RCRA increase. Balance contracted out to private lab for approximately $1,500,000.

[illegible] May 25, 1983

SENATE CONCURRENT RESOLUTION 60

INTRODUCED BY

Senator Duvall
Corcoran

MAR 1 1 1983 read first time and referred

ADOPTED BY VOICE VOTE

DIGEST

A Senate Concurrent Resolution establishing an interim study committee to evaluate the Indiana Environmental Management Board and the supporting staff from the Indiana State Board of Health.

A CONCURRENT RESOLUTION establishing an interim study committee to evaluate the Indiana Environmental Management Board and the supporting staff from the Indiana State Board of Health.

WHEREAS, the federal Resource Conservation Recovery Act (RCRA) prescribes safeguards for the generation, transportation, treatment, storage and disposal of hazardous wastes; and

WHEREAS, these materials have been identified for the most part as by-products of our modern society, technology and industry; and

WHEREAS, the United States Environmental Protection Agency (EPA) has recognized the generation, transportation, treatment, storage and disposal of these hazardous wastes as one of the most significant environmental concerns of this society; and

WHEREAS, the EPA has been established as the federal regulatory authority for the safe generation, transportation, treatment, storage and disposal of hazardous wastes; and

WHEREAS, RCRA authorizes the EPA to approve state programs to operate in lieu of the EPA, provided that such state programs are equivalent to the EPA programs and provide adequate enforcement; and

WHEREAS, the State of Indiana has received interim authorization from the EPA for certain of these responsibilities; and

WHEREAS, the EPA is desirous for the State of Indiana to receive final authorization from the EPA for this highly complex and costly, but necessary, activity; and

WHEREAS, the State of Indiana has heretofore recognized the land fill method as an acceptable method of hazardous waste disposal; and

WHEREAS, the Controller General in his July 18, 1978 report to Congress cast doubt on the acceptability of this disposal method; and

WHEREAS, recent events in certain landfill facilities in the State of Indiana have also cast doubt on the acceptability of this disposal method; and

WHEREAS, business, industry and the people of the State of Indiana have need for access to safe, secure and economical waste disposal facilities; and

WHEREAS, in 1981, the Indiana General Assembly enacted Public Law 1[illegible], which delegates to the Environmental Management Board the responsibility to oversee and assure safe generation, transportation, treatment, storage and disposal of all wastes within the State of Indiana; and

WHEREAS, Public Law 103 imposes upon the Environmental Management Board an awesome responsibility, inasmuch as it is widely recognized that once groundwater becomes contaminated there is little that can be done from a cost-effective standpoint; and

WHEREAS, prevention of the problem is paramount and it is incumbent upon the State of Indiana to determine whether the Indiana Environmental Management Board and its supporting staff from the Indiana State Board of Health is properly structured and has the necessary resources and expertise to administer efficiently and adequately these programs which are designed to provide the State of Indiana with safe hazardous waste disposal facilities which do not adversely affect the public health: Therefore,

BE IT RESOLVED BY THE SENATE OF THE GENERAL ASSEMBLY OF THE STATE OF INDIANA, THE HOUSE OF REPRESENTATIVES CONCURRING:

SECTION 1. That through this concurrent resolution, the Indiana General Assembly establish an interim study committee to evaluate the Indiana Environmental Management Board and the supporting staff from the Indiana State Board of Health. The criteria the committee shall use in making its evaluation of the solid and hazardous waste management program shall include, but are not limited to:

A. An assessment of the overall policies of the Indiana Environmental Management Board as expressed in its rules, regulations, orders, and standards, including a determination of whether the Board's criteria and decisions meet the objectives of the General Assembly in establishing the program.

B. An evaluation of whether the supporting staff from the Indiana State Board of Health has adequate manpower and expertise in the areas of hydrogeology, chemistry, biology, limnology, toxicology, hydraulics, soil engineering, air quality monitoring, air contamination removal, water quality monitoring, and water treatment to effectively monitor and independently evaluate hazardous waste management in the state.

C. An evaluation as to the extent to which a reorganization of the program is needed to assure economy and efficiency in the delivery of its services and the protection of the public health.

SECTION 2. The interim study committee shall be comprised of sixteen (16) members who have demonstrated an interest in and a knowledge of solid and hazardous waste problems, to be appointed as follows:

A. Four (4) members from the Senate, not more than two (2) of whom may be of the same political party, appointed by the President Pro Tempore of the Senate.

B. Four (4) members from the House of Representatives, not more than two (2) of whom may be of the same political party, appointed by the Speaker of the House of Representatives.

C. Four (4) members, not more than two (2) of whom may be of the same political party, to include one (1) member who is presently engaged in the business of solid or hazardous waste disposal and one (1) member recommended by an environmental organization, appointed by the President Pro Tempore of the Senate.

D. Four (4) members, not more than two of whom may be of the same political party, to include one (1) member who is presently engaged in the business of solid or hazardous waste disposal and one (1) member recommended by an environmental organization, appointed by the Speaker of the House

SECTION 3. In making appointments to the interim study committee, the appointing authorities shall select residents of this state recognized for their judgment, integrity and credibility. The appointing authorities shall seek lay members who by training, experience and education have expertise in hydrogeology, chemistry, biology, limnology and toxicology.

SECTION 4. All appointments to the interim study committee shall be made by June 1, 1983. The committee shall conduct all inquiries as deemed appropriate, including public hearings, and shall report these findings and recommendations to the Legislative Council not later than November 1, 1983.

Mr. Levitas. Yes; it might be helpful if you would identify their particular responsibilities.

Dr. Blankenbaker. Yes.

Mr. Levitas. One other thing, Dr. Blankenbaker, even though we did not ask you the question, based on your now very close experience with a hazardous waste site and the potential health impact that it might bring, have you any opinion as to the need of changing the Superfund law to cover victims' compensation for individual injury as well as the compensation for natural resource damage?

Dr. Blankenbaker. I guess all I can say in that is we obviously are concerned about the problem of those who might become—whose health might become affected from this kind of a situation. To me, it is kind of mind-boggling to think about what kind of moneys we might be talking about. I don't know what the impact would be.

I, myself, would need more information, such as what we have been talking about, from the Centers for Disease Control and other agencies such as that as to just what impact these chemicals are having on the public health. Certainly, if they are damaging our public health and we are responsible for either preventing or controlling these operations, then I think we have to take some responsibility for dealing with the problems that have been created by these facilities.

I think there are a lot of potential problems with moving in that direction, yet I think we have some moral obligation to take a serious look at it. I wish I could tell you we have the capabilities to provide you with information to help you in your deliberations on that. But it is my belief that it is an agency like Centers for Disease Control that is going to best be able to provide you with that kind of factual scientific information. I would certainly support them in that.

Mr. Levitas. If you would introduce your colleagues at this point.

Dr. Blankenbaker. Certainly.

To my immediate left is Mr. Dave Lamm. He is the Director of the Division of Land Pollution Control, the program that we are discussing today, and I guess the one who is responsible for all of these particular activities. Mr. Lamm has been with us for over 13 years now, and all of the time he has been in this particular area. It was formerly the solid waste management area. He is a graduate of Purdue with a BS degree in biology, registered professional sanitarian and member of the Indiana Association of Sanitarians, and Association of State and Territorial Solid Waste Officials.

To his left is Mr. Pat Berger. Pat has a bachelor's of science in natural resources and political sciences from Ball State. He joined the Department of Commerce in Indiana in February 1976. He became an administrative assistant to Governor Orr in 1981 and joined the State board of health in June 1983 as a special environmental consultant.

To my right is Mr. Jim Hunt, currently chief of the generator transporter section of the division of land pollution control at the board of health. He began his employment with the agency in 1968 and with us has served in a variety of capacities, including inspector for the industrial waste section, chief of the agricultural waste section, and coordinator of the liquid industrial waste hauler program.

He received a degree in zoology from Indiana University in 1967. Jim is the person on my staff who was working in the monitoring of Seymour during the early part of these activities up until I guess in 1979 or so—well, even into 1980, and the early 1980's, and really the one who brought to my attention that we had a much more serious problem than we had realized.

On the far left is Jim Knoy. Jim currently is the individual on our staff who is working closest with Seymour and will probably give you the—be able to give you more specific answers about what is currently going on. He is currently solid waste management planner in the division. He has been employed with the Indiana State Board of Health for about 7 years. He obtained a BS from Purdue University in 1976 and Master's of Public Affairs from Indiana University in 1982.

He also is a registered professional sanitarian.

I will let Mr. Watson introduce himself.

Mr. LEVITAS. Surely. Mr. Watson, we, as I indicated before, would like to hear from you now. Then I think it would make it easier for all of us to ask questions to those of you as appropriate.

Mr. WATSON. Thank you, Mr. Chairman.

Pursuant to your separate letter to the Indiana Attorney General's Office, I was requested to come here and deliver his statement on the chronology of the involvement of the attorney general's office in the Seymour Recycling matter, and, in addition, a brief explanation of the role played by the attorney general's office in the negotiations which led to the settlement with the first 24 generators at Seymour.

In July of 1977, the Indiana Stream Pollution Control Board referred the matter of Seymour Recycling Corp. and its violations of the pollution laws to the Indiana Attorney General's Office for appropriate legal action. It asked that Seymour be prevented from receiving further waste and other injunctive relief until such time as they complied with Stream Board regulations.

Within 3 days, the attorney general's office acknowledged receipt of the referral and stated that their company, Seymour Recycling Corp.'s, attorneys, had already contacted the attorney general's office, and we would begin discussions with them pursuant to the referral from the stream board.

As a result of those discussions in the early part of 1978, a proposal from the company was submitted to the board of health, specifically to the Indiana Stream Pollution Control Board. In February, a letter was sent from the stream board, signed for Joseph Stallsmith, chief of the enforcement and operations branch, questioning that proposal, saying it was not sufficient to clean up the problem.

Those negotiations having failed, a verified complaint for permanent injunction was filed April 19, 1978 against Seymour Recycling. Within 2 days, Jackson Circuit Court began hearings and had two short hearings, one the afternoon of April 21 and one April 25, which was essentially a continuation.

As a result of those hearings, it became apparent that should the stream board's desired policy that no additional waste come in, Seymour Recycling would fold on the spot, declaring bankruptcy and leave whatever hazardous wastes were in place.

Further negotiations were considered and an agreed order on May 10, 1978 was signed. This order essentially placed a 60-day moratorium on incoming wastes and proposed further hearings within that 60-day timeframe to prevent further problems at Seymour.

During that 60-day period, William Kovacs by letter confirmed to the board of health and attorney general's office that he and a partner of his had purchased Seymour Recycling, and the purchase was done by a corporation called Environmental Processing Corp. Prior to that, Mr. Ken Goodman had been president of Seymour Recycling and chief contact for all official actions.

On June 30, 1978, the Jackson Circuit Court entered a second agreed order in this case. This order permitted Seymour to operate its facilities with specific requirements stated in 11 subparagraphs. In addition, the order required monthly reporting showing all "incoming, outgoing and processed materials." These reports were made directly to the Environmental Management Board and its staff.

In November 1978, Ralph Pickard, technical secretary of the Environmental Management Board, referred violations of the agreed order of June 30 to the attorney general's office. Steven Zlatos of the attorney general's office was the deputy assigned to the case, and he requested more specific information concerning the violations from the staff at the board of health and on December 15, 1978, Ralph Pickard in a 10-page letter indicated the violations they believe had occurred with regard to the agreed order and suggested 12 additional conditions be added to the order.

In the early months of 1979 copies of letters from Bill Kovacs to his attorney and to the board of health were received which indicated reduction in drum count of between 11,000 and 14,000 drums. Jim Hunt indicated he did not believe those reports were accurate.

Pursuant to that incorrectness, the attorney general's office was requested to attempt to install monitoring wells on the site at Seymour to determine the nature and extent of the spills. During June, July, and August, these attempts were attempted in Jackson Circuit Court. Petition to show cause was eventually filed in June 1978.

These attempts to install monitoring wells were resisted not only by Seymour Recycling Corp. but also by the attorneys for the airport authority and city of Seymour. It was their belief that these monitoring wells would in fact be a source of pollution of the acquifer rather than merely a monitoring of pollution which had already gotten to the aquifer.

In the latter part of 1979, it became apparent that there was an increased drum count at Seymour Recycling, and in October 1979, there was a petition for contempt filed against Seymour Recycling. This petition was set for hearing. Prior to the hearing, the attorneys for Seymour Recycling requested discovery, and discovery was ongoing from October of 1979 into December.

During the month of December, I went to the board of health and met with Dave Lamm and some representatives from EPA's Aerial Reconnaissance Division. They indicated that by stereoscopic examination of aerial photography, perhaps the maps that you even have displayed here, they were able to count 48,000 drums on site. They indicated at that time a plus or minus of 3 percent.

That would have been a great increase in the number of drums from referrals done in 1978, and would have been—flown completely in the face with the fact that the reports indicated a reduction of 14,000 drums from the original inventory.

During the month of January, there were continued inspections at Seymour Recycling done by the board of health. We also became aware in the attorney general's office that the case of Ohio versus Chem-Dyne was an ongoing situation. Knowing Mr. Kovacs' relation with Chem-Dyne Corp. and the apparent receivership which had been filed in Ohio, we became very concerned.

On Tuesday, February 5, 1980, Jim Hunt and several other inspectors from the board of health and I went to the Seymour Recycling facility. It was very apparent that the facility was not in use at that time.

On February 7, filed a verified motion for temporary restraining order to prevent the corporation from further removing assets from the site. This order was issued on the eighth, the next day, by the Jackson Circuit Court.

A hearing was scheduled for February 14. At the hearing on February 14, no one appeared for the corporation. Two employees were there. But they indicated they were no longer employed by Seymour Recycling and they were there only because they felt that they might be held in contempt of court if they didn't appear.

At that hearing on February 14, 1980, at the conclusion of the case presented for contempt and for the temporary restraining order, the judge ordered the attorney for the State of Indiana, his bailiff, the judge's bailiff, various health officials, to go to the site with him for an inspection tour.

Over strong objections from me, we went to Seymour Recycling and walked the ground. Unlike Bill Vance, who retains boots that are—smell of Seymour Recycling, I was forced to throw away the penny loafers that were destroyed that day as we trod the ground at Seymour Recycling.

Mr. Levitas. Whose strong objection was that over?

Mr. Watson. My strong objection. I had been there, and I didn't want to go back, especially to walk it in the middle of February.

Mr. Levitas. OK.

Mr. Watson. Based on the court's suggestion, I prepared a petition for appointment of a receiver and filed that on February 22, 1980. I went then back to Brownstown, discussed with the judge who might be available as a receiver. Mr. William Vance was selected and was appointed as receiver.

As part of the order appointing him as receiver, he was given direction to clean up the site and those were the specific words contained in the order.

Subsequent to the appointing of Mr. Vance as the receiver, deputies from the office of the attorney general were in contact with him and attended meetings at which he took the lead in requesting assistance from the EPA and sought other legal methods to accomplish the directed goals of his receivership.

That State court action, which essentially culminated in the receivership being appointed in 1980, is still pending in Jackson Circuit Court. That receivership is still, as far as State law is concerned, the legal entity who controls the Seymour site. There has been no further state action in that case since that appointment of the receiver, which would be marked in the court's record.

During the latter part of 1981 and the first of 1982, the original group of responsible generators who had approached the Federal Government were unable to reach agreement. This group was known as the Bayh Group as its spokesman was former U.S. Senator Birch Bayh of Indiana. It was composed at the time of approximately 100 generators.

Apparently, a smaller group of generators led by IBM's attorney, Allen Topal, then took up the negotiations. The Indiana Attorney General's Office was not involved with the Bayh group nor during the preliminaries with the Topal Group.

In the latter part of August 1982, the Office of the Attorney General of Indiana was contacted by attorneys from the EPA, Region V, and briefed upon the ongoing negotiations. It was indicated at that time that several meetings had occurred and more were to occur within days. These meetings generally took place in Washington, D.C., although some did take place in Philadelphia, I understand.

The Indiana Attorney General's Office was invited to participate on behalf of the State to the extent practical. Because of limited travel funds, a decision was reached that the Indiana Attorney General's Office would not participate in person in the negotiations in Washington, DC; however, the office was kept informed concerning the drafts of agreements as they were created and was given some opportunity to comment about our own concerns.

On August 26, we received a draft agreement between Chem-Waste Management and the trust fund for surface cleanup. This draft was an outgrowth of the process which had been going on between the Department of Justice and the attorneys to this time.

Through September and October 1982, the State through the office of attorney general was asked to comment upon 12 drafts of consent decrees, covenants not to sue, or combinations thereof. On October 22, the attorney general and Governor of the State of Indiana executed the consent decree in its final form.

Some 5 days later this document was presented to the court in Indianapolis and two hearings were held concerning its validity before the Federal District Court adopted the consent decree as its order.

Throughout this time the attorney general's office was in nearly daily consultation with certain staff members at the board of health concerning the technical specifications incorporated into the consent decree and also frequent consultations with attorneys from both the EPA, Region V, and the Department of Justice.

The Indiana Attorney General's Office participated in 2 days of generator meeting on September 9 and 10, 1982, in which the covenants not to sue were discussed with all responsible generators.

On behalf of the office, I appreciate this opportunity to briefly outline the involvements we have had with the Seymour Recycling matter. I hope that through your investigation and study of the factors involved in this case that you may educate yourselves more fully on the problems which are faced in correcting these situations and will continue to be faced in the future.

We are prepared to submit further documentation, written documentation, if you desire at any time. Thank you.

[The statement of the Indiana Attorney General's Office follows:]

STATEMENT OF THE INDIANA ATTORNEY GENERAL'S OFFICE

Pursuant to the request of Elliott H. Levitas, the Chairman of the Subcommittee on Investigations and Oversight of the Committee on Public Works and Transportation, and in response to investigations conducted earlier, the Attorney General's Office of the State of Indiana offers this statement directed to the following points of Mr. Levitas' formal request dated November 21, 1983.

CHRONOLOGICAL SUMMARY OF THE INDIANA ATTORNEY GENERAL'S INVOLVEMENT IN SEYMOUR RECYCLING CORP.

On July 22, 1977 the Indiana Stream Pollution Control Board referred a matter involving Seymour Recycling Corporation and its violations of Indiana law and Stream Board Regulations to the Attorney General's Office to seek temporary and permanent injunctions against the company. In the summary sheet accompanying the referral, indications were made that the Corporation was receiving wastes which it was unable to recycle and had failed to follow regulations concerning storage and permitting of construction of facilities to recycle chemicals. The Board's request was for injunctive relief to prevent further wastes coming on site until regulations could be met.

Within three days, the Attorney General's Office acknowledged receipt of the referral and in a letter stated that the company's attorney had contacted the Attorney General's Office concerning negotiating for a remedy. These negotiations included company officials, various agents of the State Board of Health, the attorneys for the company and two deputies from the Attorney General's Office. As a result of those negotiations a proposal was submitted to the State Board of Health in the early part of 1978.

The proposal by the company including time schedules for reduction of wastes, implementation of incineration and various other technical plans for recycling or relocating of specific substances was questioned by the State Board of Health in a letter dated February 22, 1978 and signed for Joseph Stallsmith, Chief of the Enforcement and Operations Branch, Division of Water Pollution Control. This led to further attempts at clarification of the company's proposal to cleanup through negotiation with the Attorney General's Office and the Board of Health.

When these negotiations apparently failed, a Verified Complaint for Preliminary and Mandatory Permanent Injunction was filed by the Attorney General's Office on April 19, 1978. The attorneys of record for the Attorney General were Michael Schaefer and Steven Zlatos. This matter was set for hearing in the Jackson Circuit Court on April 21 and April 25, 1978. During the course of the hearing it became apparent that the State's position requiring accepting no new incoming wastes and the recycling, incineration and disposal of current inventory could possibly bankrupt the company. Further negotiations were held with the attorneys and as a result an Agreed Order was adopted by the Court on the 10th of May, 1978. This Order recognized a temporary halt of 60 days to incoming wastes and proposed further hearings within that time frame.

In June 1978, William Kovacs, by letter, confirmed to the Board of Health and the Attorney General's Office the purchase of Seymour Recycling Corporation by environmental Processing Corporation. Prior to this time Mr. Ken H. Goodwin had been President of Seymour Recycling Corporation and a principal in all of the negotiations.

On June 30, 1978 Jackson Circuit Court in recognition of its earlier Order of June 10th entered a second Agreed Order in this case. This Order permitted Seymour Recycling Corporation to operate its facilities with specific requirements stated in 11 subparagraphs. In addition, the Order required monthly reporting showing all "incoming, outgoing and processed materials." These reports were made directly to the environmental Management Board and its staff. In November 1978, Ralph Pickard, Technical Secretary of the Environmental Management Board referred violations of the Agreed Order of June 30th to the Attorney General's Office. Steven Zlatos of the Attorney General's Office requested more specific information concerning the violations from the staff at the Board of Health and on December 15, 1978 Ralph Pickard in a ten-page letter indicated in summary fashion the findings of the staff concerning compliance and noncompliance by Seymour Recycling with the Agreed Order. This letter also suggested twelve additional conditions and limitations be added to the Agreed Order. Mr. Zlatos apparently communicated these concerns to Edward A. Pollen, Attorney for Seymour Recycling, and indicated to him that the Environmental Management Board was firm in its convictions to require compliance with the Agreed Order.

In the early months of 1979 copies of letters from Bill Kovacs to his attorney and to the Board of Health were received which indicated reduction in drum count of between 11,000 and 14,000 drums. However, Jim Hunt of the Board of Health informed the Attorney General's Office he believed these reductions were incorrect.

Pursuant to those beliefs as to the incorrectness of the drum count and based upon concern for the possibility of groundwater pollution through numerous spills, the Board of Health staff became concerned about the lack of monitoring wells in and around the facility site and requested the Attorney General's Office prepare necessary pleadings to return to court to have such monitoring wells installed.

Based upon information received in a June 5, 1979 memo concerning special investigations, Steve Zlatos prepared a petition which he filed on June 11th to install monitoring wells. During the next three months the Attorney General's Office was involved with pleadings resisting the installation of monitoring wells including resistance from the City and the Board of Aviation Commissioners who feared that these wells would be used as a source of pollution of the aquifer. Because of the strength of community resistance, the petition for installation of monitoring wells was never granted. On October 5, 1979 the Indiana Attorney General's Office filed a petition To Show Cause Why Seymour Recycling Corporation Should Not Be Held In Contempt of the Agreed Order of June 30, 1978. This petition was set for hearing on November 7th. Defendant's attorneys requested extensive discovery and began depositions of various officials of the State Board of Health. In December, 1979 the Attorney General's Office was involved with the staff of the Indiana State Board of Health in a meeting where an aerial survey by E.P.A. indicated a drum count of approximately 48,000 barrels in August of 1979.

Despite pending discovery, on Tuesday, February 5, 1980 a Deputy from the Indiana Attorney General's Office accompanied Board of Health staffers, including Jim Hunt, to the site where it became apparent that the facility was not in use and that assets had been removed. During the month preceding this the Attorney General's Office had become aware of the receivership established in *Ohio* v. *Chem-Dyne*, a related corporation. The Attorney General's Office filed a Verified Motion for Temporary Restraining Order on February 7, 1980 and the attorney for Seymour Recycling withdrew his appearance that same day. On the 8th the Temporary Restraining Order was issued with a hearing scheduled for the 14th of February. At the hearing on the 14th of February no one appeared for the Corporation and the Court received evidence by visiting the facility in the company of its Bailiff, the attorney from the Attorney General's Office, staff of the Indiana State Board of Health, and numerous spectators. The Court suggested that based upon its observations and evidence presented in the Temporary Restraining Order that a Receiver should be appointed. Indiana Attorney General's Office prepared a petition for the appointing of a Receiver and filed it on February 22, 1980, after discussion with the Judge concerning available Receivers. Mr. William Vance, an attorney in Seymour, accepted the appointment as Receiver and began his investigations and attempts to remove this hazard from the community. As part of the Order Appointing Receiver direction to clean up the site was specifically made.

Subsequent to the appointing of Mr. Vance as the Receiver, Deputies from the Office of the Attorney General were in contact with him and attended meetings at which he took the lead in requesting assistance from the E.P.A. and sought other legal methods to accomplish the directed goals of his Receivership.

In addition to this brief chronological summary of the efforts involving the Attorney General's Office in Seymour Recycling Corporation, I am compelled to mention that numerous negotiations were had and extensive research was done in the efforts to resolve this situation. Sometime during 1981, after Mr. Zlatos had left the Attorney General's Office, an effort was made to compile a list of hours spent on this situation by the Attorney General's Office. At that time it was estimated that five attorneys who had been involved in this case at one time or another had spent in excess of 1,500 hours directly related to this case. Since that time several hundred additional hours have been spent in coordinating with the E.P.A. and the Department of Justice various generators in attempts to completely clean the site.

SUMMARY OF THE INDIANA ATTORNEY GENERAL'S OFFICE INVOLVEMENT IN THE SETTLEMENT NEGOTIATIONS LEADING TO THE SURFACE CLEANUP

During the latter part of 1981 and the first part of 1982 the original group of responsible generators who had approached the Government concerning cleanup were unable to reach agreement with the Federal Government. This group was known as the Bayh Group as its spokesman was former U.S. Senator Birch Bayh of Indiana. Apparently, a smaller group of generators lead by IMB's attorney Allen Topal then took up the negotiations. The Indiana Attorney General's Office was not involved with the Bayh group nor during the preliminaries with the Topal Group. In the latter part of August of 1982 the Office of the Attorney General of Indiana was contacted by attorneys from the E.P.A. Region V and briefed upon the ongoing negotiations. It was indicated at that time that several meetings had occurred and many more were imminent. The Indiana Attorney General's Office was invited to participate on behalf of the State to the extent practical. Because of limited travel funds a decision was reached that the Indiana Attorney General's Office would not participate in person in the negotiations in Washington, D.C.; however, the Office was kept informed concerning the drafts of agreements as they were created and was given some opportunity to comment about our concerns. On August 26th we received a draft agreement between Chem-Waste Management and the Trust Fund for surface cleanup. This draft was an outgrowth of the process which had been going on between the Department of Justice and the attorneys to this time.

Through September and October 1982 the State through the Office of Attorney General was asked to comment upon twelve drafts of Consent Decrees, Covenants Not To Sue, or combinations thereof. On October 22nd the Attorney General and Governor of the State of Indiana executed the Consent Decree in its final form. Some five days later this document was presented to the Court and two hearings were held concerning its validity before the Federal District Court adopted the Consent Decree as its Order.

Throughout this time the Attorney General's Office was in nearly daily consultation with certain staff members at the Board of Health concerning the technical specifications incorporated into the Consent Decree and also frequent consultations with attorneys from both the E.P.A. Region V and the Department of Justice.

The Indiana Attorney General's Office participated in two days of generator meetings on September 9 and 10, 1982 in which the Covenants Not To Sue were discussed with all responsible generators.

The Office of Attorney General of the State of Indiana appreciates this opportunity to briefly outline its involvement in the Seymour Recycling matter and hopes that through this investigation of all the factors involved in this case study, you may educate yourself more fully in those problems which are faced in correcting these situations in the future. We are prepared to submit to you further written information if in fact you should desire it.

Thank you.

Mr. LEVITAS. Thank you, Mr. Watson.

I notice as you went through your statement, you departed from it in certain areas, and if there is no objection, we will make your entire prepared statement part of the record.

Thank you very much, gentlemen. You certainly shed a great deal of light on this and helped us get a better understanding.

Let me deal, first of all, Dr. Blankenbaker, with some of the comments and testimony yesterday, because I think it is only fair to put the matter in perspective.

Ms. Smith, who is the head of the League of Women Voters and who was one of the activists in the community who became concerned about this, indicated in her testimony that at the beginning there appeared to be a lack of responsiveness from the State officials they were trying to get interested in this matter, and that it was only after they came to Indianapolis and began to get into personal contact that they were able at that time to begin to get some response.

I do not know if you or any of your colleagues were dealing with Ms. Smith at that point, but could you shed some light on that situation? What was the problem then, if there was one?

Dr. **Blankenbaker**. Let me take a stab at this.

I am not sure specifically when she is talking about. Part of the time that we were dealing with the Seymour Recycling problem, we were in litigation and advised to not participate in open meetings where we would be asked to discuss items that might be used one way or the other in the litigation process.

When I heard that she had made these comments yesterday, I asked my staff—I was not aware of any time that they had been told not to go. The Attorney General's Office advised us not to go because of litigation, and we could not recall a time when that is not the case.

We have attended many meetings, discussions and so forth. I will grant you that we could not and frequently did not carry out what the local people wanted for a variety of reasons that we have tried to outline in our testimony.

Let me say one other thing. Prior to my joining the board of health in 1979, the latter part of 1979, it is my understanding that there was general feeling locally in Seymour, local authorities and so forth, and maybe somewhat within our own legal counsel, that we were being too tough on this operation, and even trying to put them out of business, maybe unrighteously.

I don't believe that was the case. I do believe, though, that that somewhat prevented us from doing our job because of that attitude, and if you look at the testimony, we do point out some areas where it was local authorities that really prevented us from doing our job.

For instance, the length of time it took us to get an action upon the request for monitoring wells which was ultimately not carried out because of local intervention. We could indeed have maybe answered some of Ms. Smith's questions if we had been allowed to put those wells in or forced them to be put in and if those samples would have been taken a lot earlier than ultimately was done.

Mr. **Levitas**. Who was that at the local level, the mayor?

Dr. **Blankenbaker**. I will have to let someone else answer that.

Mr. **Levitas**. Mr. Hunt?

Mr. **Hunt**. Yes, I believe I can answer that, Mr. Chairman.

The main opposition at the local level was Mayor Chris Moritz, who was mayor during much of the time that we were working with Seymour Recycling.

Mr. **Levitas**. Mr. Watson, in your testimony you say that in July of 1977, the attorney general's office first got involved in the matter of reference from the Indiana Stream Pollution Control Board.

Do you know, do you have information as to what attracted their interest in the site?

Mr. **Watson**. The site was being inspected, as were numerous sites around the State, and it is my understanding that violations of specific stream board regulations specifically attracted their attention.

In the referral, it was indicated there were 17,000 drums of waste and 62,500 gallons of bulk waste on the property. This attracted attention. There were apparently wastes on the site which were to be incinerated which they were not capable of incinerating, which were not capable of being incinerated in Indiana under regulations at that time.

They were also receiving acids for chronic acid reduction and acid-base neutralization, and they had not achieved a construction permit to create the facility which would handle those particular substances.

Further, staff believes that the drums and other containers of wastes have been stored and are being stored in a manner which constitutes an open drum. They were referring specifically to Stream Board Regulations 17 and 18, Stream Board Regulations 2, 15, and 16 at that time.

Jim Hunt prepared that analysis to be presented to the Stream Board for submittance to us.

Mr. LEVITAS. Do you know, or does anyone on the panel, Mr. Hunt or Dr. Blankenbaker, whether those conditions also would have constituted a violation of the Federal Clean Water Act?

Mr. WATSON. There was at that time no evidence of water getting into the waters of the United States from this property.

As was described yesterday, Hedy Run, which runs directly to the north and west off of this property, has a fairly long channel and is approximately 2 miles to the White River, which would be the first water of the United States which would be affected by the Clean Water Act at that time.

Mr. LEVITAS. Mr. Hunt, did you want to add to that?

Mr. HUNT. Yes, if I could, please.

The company, Seymour Recycling, was issued an NPOES permit under the Federal program issued through the staff of the Water Control Division in 1975. As such, they did have authorized discharge to receiving stream.

Fairly early in our involvement with the company, our particular program area, it was determined that there was surface water contamination taking place.

Mr. LEVITAS. It was my understanding—and if anybody can confirm this for the record, it would be helpful—that even though the State was aware of the problems at the site at Seymour, certainly as far back as 1977, that in 1978 they were issued an interim waste hauling permit and that even when that permit expired, they were known by reports to have continued hauling wastes without a permit.

Does anyone have information that could confirm that?

Mr. HUNT. Yes, I think I could respond to that.

The additional action that was—taking you back a couple of steps further to some of your earlier questions, my first involvement with Seymour Recycling was in 1976. In 1975, the Indiana Stream Control Board passed regulation SPC 17. I was in charge of that program, coordinator of that program.

When my staff started making inspections of the facility in 1976, it didn't take too long to become aware of the fact that there was a problem. We initiated negotiations with the company to try to get them to voluntarily reduce inventories, which finally it culminated in the action referred to the attorney general's office in 1977.

The company in 1976 was issued a permit under Seymour Recycling to transport electrical industrial waste. In 1978, that permit was revoked because it was obvious it was a point where there was not a good faith effort on the part of the corporation.

After that time period, the corporation continued to haul materials into the site under a permit that was issued to assist the corporation, Trans-Environmental Corp., which is out of Hamilton, OH, so they did not haul into the facility via unpermitted transport.

Mr. LEVITAS. Now, it is my understanding that after the State court entered its order that you referred to, to deal with these drums that were there, at that time the Seymour Co. had already been acquired by Mr. Kovacs, is that correct, at the time the order was actually entered?

Mr. WATSON. It was between the interim order which stops waste coming in for 60 days and the final agreed order which was entered June 30, 1978.

The company was acquired by William Kovacs and Bill Whitten.

Mr. LEVITAS. Mr. Kovacs and Mr. Whitten were the people who were principles in the Chem-Dyne Co. in Ohio?

Mr. WATSON. Yes.

Mr. LEVITAS. All right. Now, after that order was entered according to the testimony, instead of the inventory in these drums decreasing, as required by the order, they actually increased the number of drums. Is that your understanding, Mr. Hunt?

Mr. HUNT. Yes, that is correct. Once they were under the agreed order, they were required to submit monthly reports to the Environmenal Management Board.

We suspicioned that they were not reducing their inventories as indicated, but it was difficult to determine that because we were talking about a 13-acre site and they were continually moving drums around. Therefore, we had taken some aerial photographs in early 1979, 1978, and we then requested assistance from the U.S. EPA Environmental Photographic Interpretation Center.

In 1979 they took some additional aerial photographs, and comparing the photographs, they conducted a drum count and established that there was indeed an increase during that period.

Mr. LEVITAS. Now, all during this time, the company was filing reports concerning this inventory, and these reports, as you have now indicated, turned out to be false reports?

Mr. HUNT. That is correct.

Mr. LEVITAS. So the State officials, until you got this evidence from the aerial photographs, did not know the drum inventory was increasing or that the reports were false?

Mr. HUNT. That is correct.

Mr. LEVITAS. When did you first learn Chem-Dyne in Ohio had shipped some of its waste material over to the Seymour site?

Mr. HUNT. I am not certain I could give you a very precise answer without checking the files.

We were aware—well, first of all, we were aware of Chem-Dyne's activities and Mr. Kovacs' involvement with Chem-Dyne prior to their takeover of Seymour and we were aware of the close relationship between those two corporations.

The fact that materials were being transferred back and forth was not always clearly indicated by the corporation. I don't believe, looking back, I don't believe we were aware of all of the shifting back and forth of materials that actually occurred.

Mr. Levitas. Mr. Blankenbaker, you made a point that is very significant in terms of looking at legislative solutions, both at the State and Federal level.

You said that you viewed the Seymour situation as a recycling center and as contrasted to a hazardous waste disposal site, and therefore, different regulations apply to those two things. And yet, what was really happening in the testimony this morning has already borne this out, that because of a variety of factors, overcapacity amounts of waste materials, more waste materials than the plant could handle, operational problems, other factors, it was in fact a dump site and not a recycling plant?

Dr. Blankenbaker. Yes; the question is, when did it become a dump and stop becoming a recycling center? And quite honestly, with the resources we had and the problems we were facing, it was almost impossible to tell, and probably not until it was recognized that in spite of the order, the number of drums kept increasing, that we became really aware of the fact that we were dealing with something other than just recycling, that maybe they were just accepting drums to store and then, in effect, they were becoming a hazardous waste disposal site.

The other thing about this is that the laws were changing during this time, and early on, whereas today, we could deal much better with the laws and rules we have today, much better with this kind of a situation. Back then, we were not able to apply our hazardous waste disposal rules to a recycling center. My staff would bear this out. And consequently, we got caught in this interim situation.

Today, if you store barrels anywhere, we can utilize rules and laws that are fairly stringent and much more helpful than at that time.

Mr. Levitas. All right. Now, I think I am going to stop at this point because I wanted to get this background in before we get into some of the other issues, and I am going to let the other members of the committee ask their questions and I will get back to where we go from there.

I have one last question which I have been having a great deal of difficulty trying to find an answer to.

We have heard over the last 2 years, as we have been looking into the problems of the Superfund Program, that one of the problems involved relates to the State matching share, and in Indiana, in the Seymour situation, where it is claimed, and you dispute, and EPA disagrees, that it should be a 90–10 situation, with 10 percent State match and they ruled it ought to be 50–50.

Leaving that aspect of the issue aside for the moment, EPA in their documents and testimony have said the State couldn't match, and you today said the State didn't have the resources to match.

I am not being judgmental about Indiana. I served in a State legislature for 10 years, and I know the problems that they face and the problems we face, but I don't understand what is meant by a State can't afford to match. I understand when somebody says a State is unwilling to match or a State chooses not to raise the revenues to provide the matching funds, I understand that.

I also understand that everybody has to set their own priorities. I would not presume to go through the budget of the State of Indiana and say, "Why are you spending money on this rather than on cleaning up a hazardous waste site?"

I wonder if you would address this from the vantage point of a State official, and you may want to say, "Well, look, you will have to ask the Governor or the State legislature that," and I will accept that.

I am having difficulty understanding what is meant by the comment that a "State could not match," as compared to "the State was unwilling to match or change its priorities."

Dr. BLANKENBAKER. First off, we have a citizen legislature and they meet 2 or 3 months out of the year. We have a biennial budget and it is rare that they deal with budgets on the off year.

Second, as recently as the 1983 legislative session, our legislature elected not to fund this program that we are talking about to the level necessary to acquire final authorization. During the interim, there has been a study committee that has now recommended that the State of Indiana should fund this program to the level that it can meet the final authorization.

Something else has happened.

In the efforts to pass the Superfund legislation, the public in this country became much more familiar with the problem, and I think the pressures placed upon elected officials are much different today than they were even a year ago, so I believe that in 1981, when the law was passed which would put in place this fund that would provide the moneys to clean up operations like this, to provide our part of the match, it was about that point that our legislature started to realize that it was going to have to be done.

The problem is, it wasn't done quickly enough and due to the manner in which it was done, there is some contesting of it.

The belief was that this was going to be so revenue-creating that they put a cap on of $10 million. There is $550,000 currently in the fund, so it obviously won't reach the cap too quickly.

I believe none of us recognized the enormous expense that we are talking about. If you would have asked me 2 years ago how many sites do we have in Indiana, I would have said a couple.

Now, as you see from our list, and each of those you can expect the minimum of $500,000 to $1 million to clean them up, that we have all gotten our eyes opened considerably.

I am not trying to take the blame off of anyone or put the blame on anyone. I am just trying to present to you my feeling that this problem was not adequately recognized in a way that the State of Indiana could have prepared itself for the problem that we faced.

Mr. LEVITAS. I think, from what I have heard, a very accurate description of what has occurred in many places.

All three of the members of the panel here today, myself, Mr. Molinari, Ms. Johnson, are former State legislators and we have a very good understanding from our respective State experiences of that type of situation. But I think we ought not to talk about States not being able to match, which is what the jargon seems to be. It is the question of where you set your priorities and what efforts you make and while we accept the fact that this is a national problem, we are now sharing the responsibility, the social responsibility, of the benefits our society has gained from its chemical experiences through the years.

We are going to have to devote tremendous resources, all of us, and it is a national problem but it is also a State problem and State legislatures and Governors are not just going to be able to turn to the Federal taxpayer and to the Congress and say, "It is your problem."

I can assure you that every time there is another hazardous waste site identified, there is another consitutency that is going to be looking to the Governor of that State to do something about it and not say, "We don't have the resources to."

Dr. BLANKENBAKER. I am certainly not disagreeing with you. The State of Indiana is not saying it does not want to find the mechanism to pay for its 10 percent.

We would have difficulty coming up with 50 percent, and certainly at the time we were not capable of that, and we were not capable of finding the funding.

At the same time, the State of Indiana recognized the need for funds of this sort early on, and had created a special fund which accumulated from the fines and so forth that were imposed upon the violators. That fund had reached close to $2 million in 1980 and 1981. Because of the economy, our legislature elected to take that fund and utilize it for the operation of the environmental program, so at the time that we were facing the problem of Seymour, we had no special fund, no funds available to use for dealing with the studies of Seymour, or of other sites, whatever.

We had nothing, no flexibility in dealing with that kind of problem, and again I am not blaming the legislature or anyone else. They were facing the problem of funding and so forth and elected to take that fund from us. It now has built back some, so there is some possibility there also.

One other comment. The recycling centers, this is the epitome of what we face. If you are paid to receive waste that you are supposedly going to recycle, it is lucrative and somewhere along the line, in some of these businesses, it becomes lucrative to just receive the waste and just let it sit there and then you become a hazardous waste site.

Somewhere along the line the easiest thing to do is up and leave and let that sit there for someone else to clean it up and that is what has happened to us now on several occasions. The ability to go bankrupt and let someone else pay for what is left is fairly easy to do and I am sure that you are concerned about that as we are, because the state or the Federal Government gets left holding the bag, if they can't figure out some way to get generators to pay for it as in this case.

Mr. LEVITAS. Thank you very much.

Mr. Molinari.

Mr. MOLINARI. Doctor, would you mind giving us a little more of your background. You said you took over in 1979?

Dr. BLANKENBAKER. Correct.

Mr. MOLINARI. Thank you.

Dr. BLANKENBAKER. The last week in September 1979.

Mr. MOLINARI. What did you do prior to that?

Dr. BLANKENBAKER. I am a family practitioner.

I was an educator in charge—I was chairman of the Department of Family Medicine in Florida at a college of medicine prior to taking this job and had been involved in education, the teaching of family practice residents prior to that in Indianapolis. I was in Florida for 2 years.

Mr. **Molinari**. The chairman raised some questions about the State's involvement.

How would you assess the State of Indiana's role in oversite activities, in examining sites that were suspicious? I understand that a lot of what we know today we didn't know very long ago, but each and every State has a role to play and I am wondering if you could give us your candid statement on how you view Indiana's role in that respect.

Dr. **Blankenbaker**. It is very difficult to answer that question. As I mentioned earlier, we have never been given a very clear role.

We have been told to carry out what the Federal Government says we have to do, and in many cases, that requirement is based on national concerns, national priorities, and so forth and it may differ in Indiana and consequently, applying those rules, laws, policies to local problems is sometimes quite difficult.

Second, I do not believe that we have ever been given, and I hope this doesn't seem defensive, but I guess it is, I don't believe we have ever been given the resources to do what we are expected to do.

Mr. **Molinari**. Don't you have the responsibility as commissioner of health to at least demand them or at least request them?

Dr. **Blankenbaker**. Certainly. I have been somewhat paranoid in the 4 years I have been at the board of health. We have gone through almost consecutive budget cuts every year or something to a similar nature, and at the time that we needed to be screaming for help, we were pretty much handcuffed. We were being told that nobody is going to be able to get additional help, and you have to do the best that you can with what you have got.

I am not crying. I think we did the best with what we had, but it wasn't enough and I would certainly admit that.

We find ourselves in a situation where, if you are talking about making inspections, where you would want to go out monthly, you might only be able to go out once or twice a year. When we received complaints and someone said, "This facility is dumping in the middle of the night," we don't have the resources to go out and watch that on a 24-hour basis.

We have tried to utilize local resources to help us, our local health departments and so forth. They have the same problem. We take our responsibilities seriously and we believe that we are supposed to be doing the best we can to protect the public's health. We are supposed to protect the environment the best we can, but there are two basic problems, it has never been clearly understood how clean we wanted our water in Indiana, how clear the air and how free from chemicals our soil other than as defined by the Federal Government.

We have presented that to our elected officials, our legislature and they, I believe, better recognize that and are now dealing with that particular policy issue.

Mr. **Molinari**. Getting back to my role as a State legislator, if the Commissioner of Health of the State of New York came to the legislature and outlined how serious a health problem existed, that would mean a great deal to me. Independent judgments on health problems I cannot make on my own, but when a State commissioner of health says, "We have a serious problem, we don't have the resources, and we need money," it is a different ballgame as far as the legislators are concerned. I am asking these questions to try to get an idea as to what the role of the States is and what are they doing.

The impression I get from your answers so far is that you have not in your State been able to fulfill the role that you should and that this is in part due to a lack of resources.

Dr. BLANKENBAKER. That is certainly correct. I don't think we can hide behind ignorance, any of us, in this particular situation.

We have been—this problem has been addressed in many ways through the media, in a variety of manners, and while we were being criticized up one side and down the other about our abilities to deal with the environment, our legislature elected to not provide us with those resources. I can't answer you why, other than they were not giving anyone new resources. They were cutting back.

Now, whether we did not adequately present this issue, that is certainly a possibility. I can say this: It is much more adequately understood today and a lot of it has to do with the evolution of public attitude and feeling that has been going on. Some of it is negative. Sometimes it is very difficult to accomplish something in the environmental area, because the public now is so fearful that they want everything to go away.

I don't know how we can do away with chemicals in our environment. We have to try to understand them better.

We have to try to better create protection from these chemicals, but I don't think we can just make them go away as many people would like.

Mr. MOLINARI. How can you in good conscience, knowing what we know today, make the recommendation that you have on page 15, that the 50 percent State match requirements, response actions at sites owned or operated by the State or political subdivision should be changed to 10 percent. How can you possibly justify asking Congress to give more money when the State or local government is responsible for the facility? Are we going to ask the taxpayers of the country to pick up the tab?

Perhaps we should approach it from a different direction. If it is State operated and you want to address the problem, why shouldn't you pick up 100 percent of the tab?

Dr. BLANKENBAKER. First off, we have no State operations in Indiana.

Mr. MOLINARI. This is your recommendation, that the 50 percent State match be changed to 10 percent. You are not talking just about Indiana.

Dr. BLANKENBAKER. Our interpretation in Indiana is that that is including municipalities, and when Seymour recognized the problem, the city of Seymour—I don't recall ever considering putting up any money of its own. It was their land that this was on. They leased it to this operation.

Mr. MOLINARI. Don't you have an oversight responsibility over the counties in your State?

Dr. BLANKENBAKER. Yes.

Mr. MOLINARI. Seymour is a small town, 15,000 people or thereabouts?

Dr. BLANKENBAKER. I don't recall.

Mr. LAMM. That is correct.

Mr. MOLINARI. How can you expect them to have the expertise to know how serious a problem is in their own area when they are so small and when the State doesn't have the resources? We cannot expect these little communities to take care of these situations and that is the problem.

What I see happening here, and I don't mean this as a personal attack, is a call for a greater role from the Federal Government. I am critical of some of the cutbacks and recommendations made by my own administration including Mr. Stockman, but I would rebel at the States' suggestion that their share of responsibility be reduced, because if we do that, we are inviting the States to walk away from their problems.

Let me go on and ask you if you have any laws in the State of Indiana that prevent or limit in any way the importation of hazardous or toxic wastes from another State to your State?

Dr. BLANKENBAKER. We do not.

Mr. MOLINARI. Have you made any recommendations that such laws be implemented?

Dr. BLANKENBAKER. We could limit that from the standpoint that we require a permit for anything that would come in and be disposed of. We do require a permit but we do not have a law that says you cannot bring wastes in from other States.

Mr. MOLINARI. I see. Now, describe briefly the process by which that permit is secured in your State.

Dr. BLANKENBAKER. I will let Mr. Lamm do that.

Mr. LAMM. Thank you.

We are talking about a hazardous waste facility?

Mr. MOLINARI. Yes.

Mr. LAMM. OK. As our written testimony indicates, in the State we have adopted by reference the Federal EPA rules regarding hazardous waste facilities.

Mr. MOLINARI. When?

Mr. LAMM. November 1981.

Therefore, the permit application right now would be a dual system. Since we do not have full authorization in the State of Indiana, it would require both an Indiana permit as well as an EPA permit.

It would have to follow the standards that are identified in the Code of Federal Regulations, which are rather extensive to the kind of facility, kinds of wastes, et cetera.

In addition to the technical permitting process in Indiana, we have a couple of variations. In our law, because of our experience specifically with Seymour Recycling, we included in our definition that recovery requires a State permit. As you may be aware, facilities at the Federal level that recover hazardous waste are not required to get a permit. That is one exception that we have.

In Indiana, we have a solid waste facility site approval authority which has nothing to do with solid wastes but everything to do with hazardous waste. The authority is a body that once a permit is issued by the Environmental Management Board, we are staff for that board, then the solid waste facility site approval authority, convenes and acts as a zoning board and considers the local land use considerations, local concerns, et cetera, that encompasses that activity.

They have established a set of separate rules and regulations and requirements. So we are talking about three separate permits that would be required for developing a hazardous waste facility in Indiana today.

Mr. MOLINARI. I assume you have a manifest system?

Mr. LAMM. Correct, not through our office, but it is a requirement that a manifest be used. It tracks the Federal requirement currently, which is the exception reports.

Mr. MOLINARI. Pardon me?

Mr. LAMM. We have a manifest system. It is the same one at the Federal level which requires that exception reports be filed by the generators. We do not have the manifests coming through our office as some States have.

Mr. MOLINARI. Do you occasionally examine these manifests for accuracy to be sure that they are accurate and true?

Mr. LAMM. Yes, but not a lot of that—since it tracks the Federal activity, unless the State police would stop a vehicle and check the manifest itself, we do not have a separate staff that is investigating those.

Mr. MOLINARI. Describe whether the State does stop trucks and take tests periodically.

Mr. LAMM. Yes, we have worked very closely with the State police over the last few years on hazardous waste and liquid industrial waste haulers.

Dr. BLANKENBAKER. When inspecting sites, you frequently will see a transporter on the site when those are checked, we have occasionally picked up problems.

Mr. MOLINARI. I would like to get back a moment to a question of stopping vehicles on the highway.

Could you describe what kind of success you have had? What I mean by success is picking up violators who have not complied with the law.

Our experience is there seems to be some kind of communication network out there which warns them. I know in New York, the authorities have not been successful at all. Somehow, there is a warning, and even though they have picked up many, there is little success in catching the bad actors.

Mr. LAMM. That probably would parallel our experience. We do not, as I indicate, have a manifest system in the office, so in other words, we don't get a copy that the generator files. So, there is a delay.

It requires only that the generator file an exception report. When we are investigating a facility, we would work with the State police, set up roadblocks, and they would check vehicles going to a facility and look at the manifest.

Without any specifics, I can't say that we have found a lot of violations or that we have been able to prosecute a lot of cases, even though there is existing State law that would allow the State police to impound a vehicle.

Mr. **Molinari**. What ability do you have to know how much and what types of hazardous waste are shipped into Indiana for disposal or recycling?

Mr. **Lamm**. We have a separate mechanism in our hazardous waste program which requires facilities that generate, as well as those that treat, store, and dispose, to file annual reports, and from that data, we get an indication of the nature and types and quantities of hazardous wastes that not only we are importing, but exporting as well.

Mr. **Molinari**. How about items that are shipped through your State which they don't originate there?

Mr. **Lamm**. That would simply be under Department of Transportation rules, no prenotification requirement.

Mr. **Molinari**. In your testimony, Doctor, I think you mentioned that one of the difficulties you had at Seymour was that the city of Seymour was, uncooperative.

How did that hamper your efforts at trying to take remedial action at the site?

Dr. **Blankenbaker**. One of the problems we faced early on, this is kind of in the early days prior to Superfund and so forth, before there was the public attitude that we face today, there was a feeling that we were harassing this company. And as I said earlier, I am not sure it wasn't somewhat shared by our counsel.

Certainly, the city felt that way. As I recall, I can't say this was factual, but I have been told that the mayor campaigned on the fact that he was going to clean up that operation. And when he became mayor, he got in our way.

This is certainly an opinion that I have heard. I can't factually support that, but I know that it became—the local authorities made it very, very difficult for us to accomplish a lot of the early-on endeavors we were undertaking to control this operation.

Mr. **Molinari**. Getting back to Superfund, you have a list in your testimony of priority sites titled Superfund, appendix C. You list 13 that were on the priority list. Do I interpret that correctly? Then you made an application for 11 more that are pending now?

Mr. **Lamm**. We have a total of 17 on the national priority list. We had 13 originally. We added five. They were all accepted.

One got delisted in the process, and the items we described on page 3 are describing the amount of moneys being spent.

Mr. **Molinari**. You had 13 originally and 5 were recently added to the Federal list of priority sites. You now have 18 approved by EPA as priority sites?

Mr. **Lamm**. Correct. We are looking at the 439 sites which are on the data base.

Mr. **Molinari**. That gets me back to the question of matching funds.

What are you going to do? You have 17 or 18 sites that have been approved for inclusion into the priority list, and EPA looks to you for the State's share. Are you going to come up with the match?

Dr. **Blankenbaker**. Under item 10, legislative summary, this has been brought to the attention of the study committee this past summer, and it has been pointed out that our current funding mechanism would not be adequate to deal with the potential problems that we face. It is conjecture at this point when our general assembly this coming January will deal with that. We have certainly brought it to their attention and will do what we can to encourage a change in the tax or whatever so that that fund will develop at the point that it could support our percentage of these particular activities and others in the future.

Mr. MOLINARI. That depends upon legislative approval?

Dr. BLANKENBAKER. That is correct.

Mr. MOLINARI. You do believe that the approval will be secured, so that each and every one will be funded?

Dr. BLANKENBAKER. I believe that it will. The question is whether it will be 1984 or 1985.

Mr. MOLINARI. Getting back to Seymour, when you go after a problem as you did, and the city is uncooperative, do you have State laws available where you can override the city's objections when there is a health menace, and take action?

Dr. BLANKENBAKER. We certainly can and we would use the office of the attorney general to do that.

Again, early on when we were having the most difficulty with the city, there was a general feeling that we were pushing this too hard. Also we had different laws, a different public attitude, and so forth at that point, and then that all changed. In a specific case, we would ask the attorney general to do whatever is necessary to overrule, through the state courts or whatever, many of these things that were being done in local courts.

Am I not right, Mr. Watson, that we could have taken that approach?

Mr. WATSON. That is correct.

Mr. MOLINARI. I will pose to you, Doctor, one of the questions that was posed yesterday. How do we assess the health risks of those living near one of those hazardous or toxic waste sites?

Dr. BLANKENBAKER. Let me say that one of the big concerns that I have had for the agency that I am in charge of for 4 years now is that our ability to study on our own this kind of a situation is, well, very little, and because of that, I am in the process of hiring an epidemiologist, and I just hired an epidemiological consultant and we are changing our epidemiological operation, to try to do a better job in environmental area such as we have in the area of contagious diseases and so forth.

We call in the Centers for Disease Control, and they have the expertise and credibility, so that when they say: "Yes; this is due to the environment," or "No; it isn't," at least most people will believe it. If we were to do it today, certainly the people in Seymour wouldn't believe us.

We need to develop that credibility at the State level. We did not have the capabilities. We were not going to get the resources the last several years, and until the economy started improving, we were not going to be able to put the emphasis on this that we now can. That doesn't resolve the Seymour problem, but it will help us in the future.

Mr. MOLINARI. Do you conduct population health surveys to compare populations near a site as compared to a controlled population?

Dr. **Blankenbaker**. We do not have a cancer registry. We have requested that almost every legislative session since I have been here.

We have, because of another problem in another part of the State, gained some recognition that there is a need for a cancer registry. It is that kind of information that would be very helpful. We frequently find, as in Seymour, the public will get up in arms because there is an increased incidence of cancer. Someone down the street has cancer and someone else has the same cancer. Therefore, it must be the environment. When we bring in the experts, almost always they haven't found it is because of something in the environment, and maybe we could deal with these much better if we monitored that and picked these up before the public did and educated the public on what was really happening if it is something other than the environment.

Mr. **Molinari**. CDC did a study on cancer rates in the area. Can you tell us something about that?

Dr. **Blankenbaker**. I don't have the specifics. I don't have that study with me, but as I understand it, they did find a higher incidence of cancer, but in no way could they relate that incidence of cancer to the environment. We found this in other situations, where it can be coincidental, or it can be—there are so many things that can affect cancer—heredity and so forth. They could not find a relationship between the higher incidence of cancer and the kind that they found and the environmental situation around the Seymour Recycling.

Mr. **Molinari**. How high was it?

Dr. **Blankenbaker**. We can try to get you a copy of that report. I don't recall.

Mr. **Molinari**. Could you recall what types of cancer were involved?

Dr. **Blankenbaker**. No; I don't.

I must admit that I relied on, again because of necessity, their findings that there was not, that it was not related to the Seymour Recycling.

Mr. **Molinari**. I thought you testified differently. You didn't say it wasn't related, but they couldn't prove it was related. Which is correct?

Dr. **Blankenbaker**. OK. I don't think they said it was definitely not. They said they could not show a relationship and again, it is somewhat embarrassing to say to you that we don't have the expertise to follow up on this kind of thing. We are trying to develop that expertise and hopefully will.

Mr. **Molinari**. Please don't be embarrassed, Doctor. We are trying to assess just that so we can define a necessary Federal role in assisting communities because if we have 10,000 communities throughout the country trying to come up with a system of making this kind of assessment, everybody will be doing the same kind of work.

Dr. **Blankenbaker**. At this point, we have to rely on what the Centers for Disease Control have told us. If they are wrong, we don't have the capabilities of saying that was wrong and analyzing it.

Mr. MOLINARI. Was their study limited to a cancer study? Did they go into morbidity studies?

Dr. BLANKENBAKER. I believe it was limited to cancer. I don't have the specifics and I would have to get that for you.

Mr. MOLINARI. One other line of questioning at this point.

How do you characterize the relationship that you had with EPA in approaching the cleanup problem at Seymour?

Mr. WATSON. The relationship that the attorney general's office had with the EPA has changed over the 4 or 5 years that I have been involved in the situation. In the earliest part of that relationship, it was a standoffish relationship, each asking the other to show their merit.

As has developed in the last year and a half or 2 years, it is a fairly congenial relationship in that we have supported each other in that we have attempted through merger in the Federal action to accomplish the cleanup of the Seymour site.

Mr. MOLINARI. Has your office been satisfied with the settlement as it turned out with respect to phase I?

There is a great deal of controversy and we will be hearing about this with the other witnesses as to whether EPA was correct in entering into a settlement with the first group of 24 generators and giving them a full release from further liability. What was the attitude of the attorney general, if you know?

Mr. WATSON. In 1980, the Department of Justice, on behalf of EPA, sued Seymour Recycling, and its owners, and also the city of Seymour, Seymour Manufacturing, and other participating parties. The State of Indiana elected at that time not to join in that lawsuit, primarily because we had an independent State action going at the time and had had the receiver appointed within 3 or 4 months prior to the Federal Government's involvement.

Within the last year, year and a half, 1982, as the Department of Justice appeared to be effectively negotiating a cleanup and moving toward that accomplishment, we did, on behalf of the State of Indiana, intervene in the Federal lawsuit and join the Federal Government in proposing the consent decree to Judge Steckler.

We did appear at both days of the hearing. We did offer our comments to the judge that we were in favor of such a settlement because it was affecting a cleanup immediately or within the most reasonable time frame that we could work.

Mr. MOLINARI. You approved of the phase A settlement as it was finally drafted?

Mr. WATSON. Yes.

Mr. MOLINARI. Has the State had other experiences with cleanup operations by Chemical Waste Management at other sites?

Mr. Hunt, you are shaking your head yes.

Give us the benefit of your experience.

Mr. HUNT. Chemical Waste Management is also involved in the—Chemical Waste Management is also involved in the Enviro-Chem cleanup, which is another hazardous waste site undergoing Superfund cleanup.

Mr. MOLINARI. Is that on the list provided to us here?

Mr. LAMM. Yes; it is.

Mr. HUNT. It should be.

Mr. LAMM. Right at the top of the list.

Mr. MOLINARI. I see. Enviro-Chem Corp. Who hired them in this case?

Mr. HUNT. I would have to refer that. I have not been directly involved in that case.

Mr. KNOY. Initially they were hired to do a cleanup by EPA as of July of this year. But there has since been a consent decree reached with generators at that site and Chemical Waste Management is now employed by a group of generators.

Mr. MOLINARI. By whom?

Mr. KNOY. A group of responsible parties.

Mr. MOLINARI. So they are still involved in a cleanup of that site?

Mr. KNOY. Yes.

Mr. MOLINARI. These are is the only two sites now that you know of within your State?

Mr. KNOY. They also conducted a planned removal under CERCLA by USEPA—at Mid Co. I, another recycling facility.

Mr. MOLINARI. Mid Co. I. That is in Gary, yes?

Mr. Watson, I would welcome your comments on the record.

Mr. WATSON. It was my understanding Chemical Waste Management also operated their own facility at Wheeler, but I may be incorrect.

Mr. LAMM. Yes. Waste Management Corp., Inc., as a corporation has facilities in the State. Is your question related specifically to the cleanups they are involved in.

Mr. MOLINARI. They operate a facility where?

Mr. LAMM. Landfills, I am talking about, really landfills.

Mr. MOLINARI. Landfills?

Mr. LAMM. That is correct. In the State. They evidently have a number of operating divisions, one of which, for lack of a better term, would be a disposal division which they operate facilities that dispose of municipal solid wastes.

They have a number of landfills in Indiana owned by Waste Management, Inc.

Mr. MOLINARI. Does Waste Management, Inc., to your knowledge contain the same principals that control Chemical Waste Management?

Mr. LAMM. Absolutely.

Mr. MOLINARI. Please proceed.

Mr. LAMM. A subsidiary of them is Chemical Waste Management in which they are involved in transportation and disposal of hazardous wastes as well as the cleanup operations.

Mr. MOLINARI. Are you aware of the fact that Chemical Waste Management has been the subject of a great deal of scrutiny? As a matter of fact, that they have been fined in several cases, to my knowledge, for failure to abide by the terms of the cleanup agreement?

Mr. LAMM. I am aware of a number of those, yes. I am aware of a number of fines that we have levied at the State level.

Mr. MOLINARI. You have. Tell me about that, if you would, please. Or whoever is most competent on the panel to—because this is the firm that I am concerned about.

I think their track record is far from good. If they are extensively engaged in your State, as they are, I would certainly have some concern.

Mr. LAMM. Those are primarily operating deficiencies at their landfills. Those are the ones we have levied. We were involved in the accident that occurred early on in the cleanup of Seymour, when they transported material off of the site and didn't report it. So it was a violation of reporting requirements.

Mr. MOLINARI. Is that because of the violation that took place? How did you become aware of the fact that they were disposing at sites other than the agreed-upon sites?

Mr. LAMM. Essentially because of that accident.

Mr. MOLINARI. Had the accident not occurred, you might not have known of the fact they were violating the agreement.

Mr. LAMM. That is potentially correct, yes.

Mr. MOLINARI. Which raises the question in my mind that they might have been doing this a lot more, but simply got away with it because they didn't have other accidents.

Mr. Watson.

Mr. WATSON. I beg to differ with Mr. Lamm, but we were receiving at that time monthly reports, and continued to receive those monthly reports as to the sites that they were headed toward, and would have been within a week or two that we would have noted that they were, in fact, disposing at sites which were not specifically listed, had there been no accident in January.

Mr. MOLINARI. I am going to ask one more question. And then pass on to Mrs. Johnson. In fact, I think it would be better if I yielded to Mrs. Johnson right now and reserved my questions.

Mr. LEVITAS. Yes; we will have an opportunity to go back around again. Mrs. Johnson, you are recognized.

Mrs. JOHNSON. Thank you very much, Mr. Chairman.

Gentlemen, it has been a very, very interesting morning. I commend you on the quality of your testimony. As a former State legislator, as the rest of my colleagues here, I do appreciate the story that you tell is not unique. The difficulty of legislators understanding the complexity of the problems, the difficulty for you with your resources to move at the same pace as some of the research, while at the same time trying to move the legislature on, is truly one of the difficult problems democracies face.

How do we make informed decisions when the information is complex and difficult, and runs counter to people's perceptions? How, then, do we manage to make the changes that are required, especially when they do cost a lot of money, and sometimes cost a lot of jobs?

So it is one of those stories that does show for us very clearly the complications of implementing change as well as leading and supporting change.

I do gather from your testimony that you believe the issue of the quality of State laws has been more or less addressed.

Dr. BLANKENBAKER. The situation has certainly improved. From our standpoint, in the acceptance of the movement toward final authorization, we have pretty much put in place the Federal requirements, with some additional requirements, as Mr. Lamm indicated.

We might not have had Seymour, this situation, had we had these laws and rules and some of the resources back a few years ago.

I think certainly that—well, I probably ought to ask Mr. Watson to respond to this, but I think we probably have adequate laws now. We just need the resources to implement them adequately.

Mrs. **Johnson**. Would you agree with that, Mr. Watson?

Mr. **Watson**. I believe that we have paralleled Federal statutes. And to the extent they are adequate, our State statutes and regulations are adequate.

Mrs. **Johnson**. Perhaps it would be justified to draw the conclusion that Federal leadership has to find more effective ways of requiring State action in terms of the legal structure within the States that would back up the Federal structure imposed from Washington.

Dr. **Blankenbaker**. I guess my response to that would be I have certainly been frustrated from the standpoint that we have been pretty much asked to mimic what you do here, without really getting a good understanding of what we want on the local, State level. That is what I was saying before in terms of policy.

What do the citizens of Indiana wish us to do in terms of their environment, beyond what is being required from the Federal level? Do the citizens of Indiana feel that is too stringent, not enough?

Certainly when it is in their neighborhood they feel it is not enough. Certainly it is difficult to deal with these situations without better understanding, and I think that responsibility rests with our legislature to set some policies in this particular area that may be above and beyond what you have done here in Washington.

Mrs. **Johnson**. I do hear what you are saying about the State's need for flexibility in making its own decisions. But it is perfectly clear, I think, from this example, and it is certainly backed by my experience, that at least initially, the Federal Government does have the resources, the technical resources to make some judgments earlier in some instances. You did indicate that the framework of the Federal laws helped to allow you to act.

Dr. **Blankenbaker**. Let me add something that I intended to say earlier, but didn't, but I think this is an appropriate time. When the State of Indiana elected to move toward full authorization in this particular area, we did it with the understanding that 75 percent of the funding was going to come from the Federal Government.

As has happened to us, the Federal Government had some problems with funding, too. We have found that that funding has straight lined. If you will recall our figures earlier, it is more like 50 or 60 percent now that we can anticipate coming from the Federal Government, and the remainder from the State.

And as this expands, if the Federal moneys are going to straight line or plateau, then we have got to, if we want to do the job, we have got to make it much more State oriented, and convince our legislators that there is a need for these moneys, and it is providing them and their communities with what they need.

So I, yes, I think we have got a lot of work to do from that standpoint, too. I don't think we can totally rely on the Federal Government, certainly if the funding situation continues the way it is.

One of the things that happened to us in Indiana is that we anticipated—well, I can't remember the exact figure, but we found out when we assessed our hazardous waste situation, the amount of tonnage was 50 times what we anticipated it to be.

That, in turn, then is reflected in numbers of people that have to be out there dealing with that tonnage and so forth. One other thing. You have moved toward the addition of the small generator under the law.

I am not saying that is not good. But that is going to require additional people, additional funds to deal with the small generator. I don't recall there being a move toward increasing funding to go along with that.

I suppose we will have to try to convince our State legislature again to add to the funding because of that.

Mrs. JOHNSON. Thank you. I think we do all need to gradually gain a better understanding of the Federal role and the State role. The Federal role, especially in these areas of scientific complexity, is to provide leadership in moving States more rapidly at the beginning, and then backing off and providing some flexibility.

I mean your legislature is clearly at the point where it would have been nice if they had been there 4 years ago. We could have allowed them a great deal more flexibility if indeed they were there 4 years ago or 5 years ago or 6 years ago.

Coming from a State that opted to take the responsibility to implement a clean water and hazardous waste program very early, I know the pressure that that responsibility put on the Appropriations Committee because I was on the Appropriations Committee at the time.

In many ways that was better, because we did opt to be the institution responsible for the program at the State level. It immediately confronted the State legislature with the kinds of issues that you are confronted with, and where we are now in Connecticut is a need for much more autonomy now in managing systems that we have pretty well in place.

That brings me to my final question. I will not take too long because it is late and we do want to break before this afternoon's hearings. One of the major issues is, in view of the limits on resources at all levels which will continue in the foreseeable future, how we can more effectively use those resources. Now, you mentioned your need to develop some organization that has the credibility of the National Center for Disease Control.

I am wondering if really that is wise. I am wondering if one of the things that we shouldn't do on this committee is perhaps to address the need for health studies nationally, because we do have better resources.

There will be similarities between the studies that have to be done in Indiana and Ohio and Connecticut and Wyoming and wherever else. It may be that some of the technical expertise ought better to be provided at the Federal level.

I do say that we cannot get into the business of supporting your staff. I have seen that done at the State level. I have seen that money withdrawn. It often builds into our bureaucracies a rigidity that is not efficient or effective.

But I think one of the things that we could be dealing with much more effectively in this reauthorization process is beginning to identify those areas in which Federal resources could save States money and prevent duplication of the development of expertise at the State level which would require the Federal Government to expand its capacity to do health studies.

But I would be interested in your reflection over the next couple of weeks in identifying those specific responsibilities that you think might be useful if we took over in greater measure. I will tell you that I will not support money for your staff, because I know that ties the hands of the State legislators.

I am concerned with sharing the costs of these things, but I think we have got to do that in a way where each institution has good oversight over those portions that they are funding.

Dr. BLANKENBAKER. I don't disagree with you. I think certainly the health issue, the research that needs to be done, I believe, could be done much more efficiently on a national level and done by the Centers for Disease Control.

That agency has the credibility, has the respect, I believe, of most States. And the results that they came up with would be, I believe, accepted.

We would not, and I do not intend to develop something that would compete with that. We have a need for a minimum amount of this on the State level which we aren't even close to.

So whatever we do would be supplementary and complementary to what you would do at a national level. But it is necessary.

Right now, kind of what I have to do is call in CDC and they do the study and we can't give much help. There is a lot of help we could give them on the national level. In terms of staff support, I think that reflects some of our frustration at the funding——

Mrs. JOHNSON. I appreciate that. There is one specific question that is not clear in my mind. Has the issue of the number of buried barrels at the Seymour site ever been investigated?

Dr. BLANKENBAKER. Mr. Knoy?

Mr. KNOY. Historically, maybe Jim Hunt could answer that better. But presently we cannot study what is buried there to any good degree because—well, we couldn't up until just recently because of all the drums that were onsite. Before we go on with the types of instruments that detect buried drums, we want to—they can use remote sensing devices. I don't know how familiar you are with these devices, but you need to get all the metal off the surface before you use them to find out what is buried.

Mrs. JOHNSON. Why were you willing to agree to a negotiated settlement without providing at least for those sensing devices to be used and removal of the identifiable underground barrels? I can appreciate why you wouldn't require all aspects of the underground problem to be a part of that settlement.

But it disturbs me greatly that the underground barrels are there and so little has been done about inclusion of that problem in the existing settlement.

Dr. BLANKENBAKER. Let me answer that. We were concerned and still are.

Mrs. JOHNSON. I am glad to hear that.

Dr. **Blankenbaker**. It was addressed at the State level. And the decision was, what choice do we have? We have got a problem that is worsening. We have a mechanism to try to resolve it. It is—if we go into litigation we could—this could go on and on and the problem just gets worse.

Mrs. **Johnson**. Let me ask, was that specifically discussed to your knowledge, or Mr. Watson's knowledge? Was the specific issue raised of subsurface monitoring and subsurface barrel removel inclusion of after cleanup is completed.

Dr. **Blankenbaker**. Let me try, and I think probably someone else should really give you more specifics on it.

There are two separate issues. One is the surface, and one is the subsurface. Once the surface is cleaned up, then there was another approach to the subsurface. This would be part of that. So I think that was intended to be done throughout.

The concern that I had and I think the concern that the State of Indiana——

Mrs. **Johnson**. Are you saying that you thought that removal of the underground barrels was intended to be done throughout the negotiations?

Dr. **Blankenbaker**. Yes. But it is—there were two separate approaches. One was the surface and those people who would commit themselves to cleaning up the surface. To do so, they didn't have to be responsible for the subsurface. Then there was the group that was going to deal with the subsurface. And they were going to be responsible for that.

The concern that we had was, suppose we are wrong. Suppose it is a much worse problem. Once that commitment is made, the State is left with the rest. And we discussed that at length, and with much concern, and elected, right or wrong, to go with the—to support the proposal because it was our only choice at that particular time to get something done.

Mrs. **Johnson**. In other words, you weren't able to separate out the specific issue of buried barrels from the larger issue of subsurface pollution?

Dr. **Blankenbaker**. We were not party to that negotiating process. We provided technical support. We had some legal representation and discussion. But we did not participate in the agreement, negotiating process.

Mrs. **Johnson**. I appreciate that, but you did have enough representation to raise that issue.

Dr. **Blankenbaker**. Maybe I should let Mr. Watson try to answer that.

Mrs. **Johnson**. I am concerned that there was no differentiation between the problem of the underground barrels and the larger problem subsurface pollution in general.

Mr. **Watson**. There currently exists no evidence that there are any barrels underground.

Mrs. **Johnson**. I appreciate that, but it could be, as Dr. Blankenbaker said earlier, small or it could be an absolutely mammoth problem. Not to have dealt with the possibility of underground barrels which could be so enormously serious and costly is one of the reservations that I have about that negotiated agreement. I don't understand why you didn't press at least for that aspect of the subsurface problem as part of the first negotiated agreement.

Mr. **Watson**. The first negotiated agreement was based upon the assumption that what was above ground and visible was in fact one-half of the problem. Those parties who were doing the negotiating, the 24 generators, had contributed one-half of the incoming wastes to the site. The negotiated settlement was based on those one-halves being equivalent, half above ground, whatever would be below ground would also be one-half and would leave one-half of the responsible parties——

Mr. **Molinari**. Would the gentlelady yield?

Mrs. **Johnson**. I certainly will.

Mr. **Molinari**. Are you suggesting that there was knowledge as to what below-surface cleanup would come to, so that you could accurately state that 50 percent of the generators were paying 50 percent of the cleanup costs?

Mr. **Watson**. As stated in 1982 at the generator meetings, EPA's best estimate was that each half, above ground and below ground, would be equal. And there have been no studies available to be made below ground since that time which would contradict that.

Mr. **Molinari**. There have been hardly any studies made at all concerning costs of the below-surface cleanup. As a matter of fact, there are all kinds of EPA memorandums, indicating they have no idea as to what the precise subsurface costs are going to be. As a matter of fact, they are waiting until next month when they complete the phase A cleanup to start putting the wells in to find out what is down there.

Mr. **Watson**. I understand that.

Mr. **Molinari**. So that we really don't know at this point what costs are going to be.

Mr. **Watson**. Also understand that in 1982 EPA had in its possession all of the available generator records which were in the possession of the Seymour Recycling at the time. To the best estimate as to the accuracy of those records, they were estimating that the drums above the surface were in fact the inventory which remained onsite.

Mr. **Levitas**. If the gentleman would yield on that point.

Mr. **Molinari**. Yes, sir.

Mr. **Levitas**. I don't really want us to get ahead of ourselves. We are going to get to that. I think the point Mr. Molinari is making is that the question, or your response to the question may be beyond your actual knowledge in responding to it. And it happens to be something that we are going to hone in on very closely.

But I think Mrs. Johnson, Mr. Molinari, are simply suggesting, based on information we have, that the confidence with which that $30 million figure was being bandied around was more of taking it out of thin air than it was based upon a sound data base. You know, that is all they could do. A worst case scenario, or whatever.

But we are talking about potential contamination of aquifers, upper aquifers, lower aquifers, the extent of migration, what is happening to wells, a whole bunch of questions which I think Mrs. Johnson is simply making the point that we are laying the groundwork for, so to speak, for getting into that with other witnesses.

I just don't think you need, I admonish you to say whatever you want to say, but don't go beyond what it is you know. I think it would be——

Dr. **Blankenbaker**. Can I add——

Mr. **Levitas**. No; I think Mr. Watson should respond.

Mr. **Watson**. I didn't mean to go beyond what I thought I knew at the time. My understanding of your question was directed to the State's knowledge and request for the original group of settling generators to clean up below surface drums if any existed.

Based upon the knowledge we were operating with at the time, we believed that this group of generators who had settled were settling for their proportionate share. And in fact it was our belief and a premise upon which we acted that by removal of the surface problem, it would in fact mitigate the subsurface problem as it would continue to create itself within the next 3 or 4 years.

Can I——

Mr. **Levitas**. What I am going to suggest is, the witching hour having arrived and now past, I would suggest that Dr. Blankenbaker wants to make a response, a brief response.

Dr. **Blankenbaker**. Very brief.

Mr. **Levitas**. And you want to complete your next question. Then we will recess and resume, and you will be recognized as soon as we return.

Dr. **Blankenbaker**. The response was an answer, somewhat of an answer, I hope, to your question. That is that I feel comfortable that we did raise that issue. It was raised to the appropriate negotiators. I was certainly led to believe, and I think the State of Indiana was led to believe, that any further pushing in that particular area could have thwarted the whole negotiation effort. And we decided to accept the agreement as it was presented to us, because it was the, really the only choice we had for some kind of immediate action.

Mrs. **Johnson**. That is what I wanted, a clear statement as to whether or not you felt you had pressed the issue of trying to separate the barrel issue from the other subsurface pollution issues.

Thank you.

Mr. **Levitas**. Thank you.

Mrs. **Johnson**. That concludes my questions.

Mr. **Levitas**. As I indicated, we are going to break for a lunch recess at this point. If the visitors from Indiana need some directions about how to get to the facilities in the building here, our staff would be glad to assist you.

We will reconvene at 2 p.m. Hopefully, we will be able to conclude with your testimony by midafternoon, if at all possible. We will conclude with your testimony today, hopefully by midafternoon if at all possible.

And then we will have to see at that time, I see Mr. Lucero is here now. I had announced earlier, Mr. Lucero, that based on how the testimony was going today, it is possible that we may have to hold over testimony until another meeting of the subcommittee rather than try to deprive any of the witnesses the full opportunity to testify today. And it appears that that is the direction we are headed in.

I have attempted to reschedule the discussion of the settlement agreement to February 14 because of its symbolic meaning on that day. But I would really like to get to it earlier. If we do have to postpone it, I would hope that we could do it either later this month or early next January, before Congress reconvenes. If you will stay closely in touch within the next 15 or 20 minutes, I think we can give you some pretty good information on that.

The subcommittee will stand in recess until 2 p.m.

[Whereupon, at 12:30 p.m., the subcommittee was recessed to reconvene at 2 p.m. the same day.]

Mr. LEVITAS. The subcommittee will please come to order.

Let me turn to a number of questions that I did not get into the first go-around of mine.

Mr. Hunt, I guess you might be able to answer this question. Did you have any contact with any of the generators of the material that ended up at the Seymour site?

Mr. HUNT. Yes; I have had contact with a number of the generators, back, oh, 1979, early 1980, particularly.

Mr. LEVITAS. What was their reaction? What was their reaction to the situation that existed at Seymour?

Mr. HUNT. In terms of what kind of problem was represented there, or cleaning it up?

Mr. LEVITAS. Both. Were they surprised at what they saw, or did they know where their waste was headed, or were they taken aback by the fact that it was in Seymour, or in the type of display that we have seen on the photographs?

Mr. HUNT. Probably I would have to say all of the above.

There were all kinds of reactions. Some of the generators had been making inspections, on a fairly routine basis, and didn't seem too surprised. Others had not been and were quite surprised. Still others were surprised that the waste was even at Seymour because they had originally had the understanding it was being shipped to another facility and ended up at Seymour.

So all kinds of reactions.

Mr. LEVITAS. In talking to the generators about the situation as it unfolded, what seemed to be their attitude as to what should be done or who ought to be doing it?

Mr. HUNT. Here again, there was quite a wide variety of reactions. Some of the companies, for example, were willing to come in and pick up their waste material, and assumed responsibility at that point.

Very early we tried to work with the generators to at least get them to remove the waste material that it was obviously, or identified in drums and so forth as theirs, to minimize the effect, environmental effect. Some of the companies were willing to do this. Other companies didn't appear to be willing to do anything in that respect.

Mr. LEVITAS. We heard yesterday from Mr. Vance, the receiver of Seymour, that in his conversations with an EPA official, the EPA official proposed as a means of taking care of the situation there, that the generators be contacted, and come in and haul off their own waste.

Were you aware of that proposal?

Mr. HUNT. Yes, I believe some of the early contacts with the generators, that that approach was being considered. I think at the same time, to my knowledge, there was no talk about a release from liability. It was just "you do this, and we will see what comes next" type attitude.

Mr. LEVITAS. Did you think that was a feasible approach?

Mr. HUNT. Well, given the fact that there were 50,000 to 60,000 drums of material that was sitting there and the containers were deteriorating, I think it was preferable to at least get generators to remove the material and properly dispose of it, and then address the other obvious environmental problems at a later time.

Mr. LEVITAS. When did the State board of health become aware that there were discharges of waste from the Seymour site into the local sewage treatment system?

Mr. HUNT. Just going from memory, I would say, mid-1978, or at least aware that there were discharges which caused the treatment plant problems.

Mr. LEVITAS. And in October 1978, we find a letter from J.C. Stallsmith. Who is he?

Mr. HUNT. Joe Stallsmith is in the water pollution control division. I believe he is chief of the enforcement branch.

Mr. LEVITAS. Of the State board of health?

Mr. HUNT. State board of health, yes.

Mr. LEVITAS. He writes a letter to a Mayor Donald H. Ernest of Seymour.

Mr. HUNT. Yes.

Mr. LEVITAS. And says that Mr. James Hunt of this office received a phone call from the operator of the Seymour sewage disposal plant, who had reported a pink material having a styrene odor had entered the sewage disposal plant and was causing operational problems.

Mr. HUNT. Yes.

Mr. LEVITAS. You say it was subsequently established the source of waste was the Seymour Recycling plant. What was done in that regard? What happened after that information was called to the city's attention?

Mr. HUNT. I can't recall exactly what action was taken in response to that. That was at a time when Seymour Recycling was under an agreed order, so it was sort of in enforcement and litigation type, both.

Mr. LEVITAS. Do you know, Mr. Watson, whether there was any specifics taken at that time?

Mr. WATSON. What date was it you were talking about?

Mr. LEVITAS. It was October 4, a letter from Mr. Stallsmith to the city of Seymour.

Mr. WATSON. What year? I'm sorry.

Mr. LEVITAS. 1978.

Mr. WATSON. No, not that I know of, was anything done based on Joe Stallsmith's letter of October.

Mr. LEVITAS. Mr. Hunt, who is David Shipe, S-h-i-p-e?

Mr. HUNT. David Shipe is an inspector in the water pollution control division of the board of health, emergency response section, or was at that time.

Mr. LEVITAS. Now, he writes a memo to you in October, on October 24, to be exact, 1978.

Mr. HUNT. Yes.

Mr. LEVITAS. And he describes the spill of some material at the Seymour site. And he goes on to describe what was done, ran out into a ditch, and talks about his followup.

He makes the statement that, and I quote: "It is the opinion of this staff member that a serious health and environmental threat currently exists at this facility."

What action was taken, if any, in response to that memorandum?

Mr. HUNT. First of all, we had already filed action against Seymour based on our evaluation that it was an imminent hazard, so that was old information to us, not something we had to initiate action on.

Second, spills such as the one Mr. Shipe observed were referred to the attorney general's office at a later time and was the basis for our going back to court and asking for additional relief.

Mr. LEVITAS. At any time did the Indiana State Board of Health make any effort to have the Federal Bureau of Investigation look into the activities at the site?

Mr. HUNT. Yes.

Mr. LEVITAS. Would you elaborate on that, what was done, approximately, when, what happened?

Mr. HUNT. Offhand, I don't have a date in front of me. I believe it was 1979 that we requested—that I requested through U.S. EPA, I believe, that we tried to obtain assistance to determine what type of criminal activity may be going on at Seymour Recycling, because we had gotten reports from neighbors, from present and former employees, that the company was dumping material, that they were punching holes in drums, releasing material on to the ground, dumping hazardous materials into the sewer system.

So based on this, we did not have the capability of undertaking that type of investigation. We requested the assistance of the FBI.

Mr. LEVITAS. What happened in response to your request?

Mr. HUNT. I met with an investigator of the FBI. I believe his name was Ray Mushal. We met at the site, drove around the site, evaluated the situation. Then he responded at a later time that they could not give us assistance, one, because it was too difficult to set up surveillance and be able to protect their personnel, because of the openness——

Mr. LEVITAS. Would you repeat that, please?

Mr. HUNT. He indicated it was too difficult for them to set up surveillance and put undercover agents onsite to try to determine what kind of illegal activity was going on.

And then second, they had some question as to whether they had statutory authority to do this under their laws.

Mr. LEVITAS. Do you know if they had consulted with the Justice Department or EPA before——

Mr. HUNT. I really don't know, I—I don't know.

Mr. LEVITAS. All right.

Now, I have a letter here dated June 17, 1982, from Gov. Robert D. Orr, to Mr. John D. Bottorff, executive vice president, Greater

Seymour Chamber of Commerce. And he is talking about the situation at the site and efforts made by the State and so forth.

He says in the letter:

> The State of Indiana continues to make Seymour Recycling its No. 1 cleanup priority. Fortunately, the close to $2 million from section 311 of the Clean Water Act spent to date has stabilized the situation at Seymour. We have been informed by region 5, EPA, and the State board of health, that there is currently no serious contamination problem.

Was it the view of the State board of health in June 1982 that there was no serious contamination problem at that site?

Mr. HUNT. It was not my view.

Mr. LEVITAS. Weren't you the person?

Mr. HUNT. I was not the person that gave that information.

Mr. LEVITAS. Did you collaborate?

Mr. HUNT. The information communicated to the Governor——

Mr. LEVITAS. The Governor has to rely on people that give him information, and EPA likewise.

When we have, going back to 1976, this type of activity in—but you were even looking for the FBI to come in, false documents filed about what they are doing there. We want to figure out how we can make sure that people in policymaking positions are getting the right information.

How do you think the Governor came to that conclusion?

Mr. HUNT. Well, I would assume that it was through ISBH personnel that it was brought to the Governor's attention.

Dr. BLANKENBAKER. Let me respond. I can't remember the wording. Did it say there was no contamination, serious contamination?

Mr. LEVITAS. The words that were used were "there is currently no serious contamination problem."

Dr. BLANKENBAKER. Mr. Berger may wish to speak to this, but at that particular time the discussion between the Governor's office and the State board of health was going on primarily between Mr. Berger and myself in this particular area and we were having regular communications on this line, and I believe that discussions we were having is there was not an imminent health hazard.

It was in response to that letter, Mr. Hunt, making me aware of his concerns beyond what was being said in the Governor's letter, but I think the Governor's letter was somewhat reflecting my discussions with Mr. Berger, along the line that we were not aware of an imminent health hazard to the public in the area of the Seymour Recycling.

Mr. LEVITAS. Mr. Berger, at that time you were working for the Governor?

Mr. BERGER. Yes.

Mr. LEVITAS. Maybe you can give us some further information on what happened.

Mr. BERGER. Well, at that time it was based on the information from Dr. Blankenbaker and from communications I had with the Regional Administrator's Office, was that everybody recognized that there was a contamination problem, and there was a bad situation, but that the situation had been stabilized, that there was—as Dr. Blankenbaker said—there was no imminent health hazard and that is where I came up with the language, currently no serious contamination problem.

Mr. **Levitas**. Who at the State board of health did you get that information from?

Mr. **Berger**. My contact was primarily with Dr. Blankenbaker.

Mr. **Levitas**. OK. At some point Mr. Hunt learned of that letter, and wrote what I consider to be a pretty strong memorandum about that. He says, referring to those statements, "I find these statements particularly disturbing in light of the fact that numerous inspections, my most recent being on May 21, have shown that this site is anything but stable," and goes on to say, "To contend that there is currently no serious contamination problem displays a disregard for the gravity of the situation at Seymour." And the fact is the site represents deterioration and leakage of 55,000 drums of buried and unidentified hazardous wastes, and the aquifer is utilized as a drinking water supply within one-half mile of the site.

What happened after that?

Dr. **Blankenbaker**. It was embarrassing to me to immediately get back to the Governor's office and say what I have been telling you is not true, Mr. Hunt is informing me that there is a hazard there and he is very concerned about the situation. I don't believe that he and I had had any conversation along this line prior to that and so what information had gotten to me had been funneled through several channels.

It is not an excuse but my response was to immediately get to the Governor's office and say that is no longer the case, and that our inspector believes there is a serious problem there that warrants much more immediate action.

Mr. **Levitas**. Now, all of this is happening during the summer of 1982, and at this time there is a Federal suit pending against certain parties and negotiations are underway between EPA, Justice Department and some of the generators, and you have described earlier what your relationship was, that it was sort of not altogether excluded but really you were not in the middle of the negotiations.

Is that a fair statement?

Mr. **Lamm**. That is correct.

Mr. **Levitas**. OK. Did you get any indication that there was a change in attitude concerning the resolution of this case in terms of either going to trial or settlement during this period of the summer of 1982, any of you, as you were observing it?

Mr. **Hunt**. There was quite a lapse of time between our participating in some of the negotiations in mid-, early 1982–81, rather, and then apparently extensive negotiations between the generators and the U.S. attorney's office which we were not involved in at all and then we finally became involved again when we received a copy of a draft technical plan for the surface removal, phase I project, so it is really difficult to get a feel to really respond to that question.

Mr. **Levitas**. Was the thing just sort of cooking along and all of a sudden you found out it was resolved or did it move slowly and then accelerate its pace toward some resolution, or were you contacted by Federal officials who said we were taking this off the back burner and putting it on the front burner?

Mr. **Hunt**. It did move slowly for quite a period of time and I know we were somewhat concerned that apparently negotiations were going on with the generators and we were not any closer to a resolution and all of a sudden in August things progressed much faster.

Mr. **Levitas**. It began to pick up a little bit in August?

Mr. **Hunt**. Yes; we were asked to attend some meetings.

Dr. **Blankenbaker**. We were receiving during this period of time a number of calls from the local people and I know the Governor's office was, and that was the reason that Mr. Berger and I were having constant communication. It was in spite of those pressures that we were saying that the situation is stable, that the Federal people are working on this and trying to work out an agreement and so forth. If efforts picked up, it was most likely from the State's standpoint due to the memo of Mr. Hunt to me indicating that we were not getting across to the Governor's office the severity of the situation for some reason or another. Again, Mr. Berger may wish to respond to that, but up until that point, I was assuring the Governor's office that we did not see an imminent hazard.

Mr. **Levitas**. Mr. Berger, would you like to contribute on this?

Mr. **Berger**. Yes. In August when Dr. Blankenbaker came to us and said that the situation is rapidly deteriorating, we no longer can make the statement that it has stabilized and the express concern that Mr. Hunt and the staff felt that—they thought if we waited to do anything through the winter, we may well have a public health emergency. So consequently, in August we went to the Governor and apprised him of the change in the situation and said to the Governor, "Governor, we need to move this thing along. Our best chance for immediate action is the settlement and use the power of your influence to try and get the Federal Government moving."

From that standpoint the State in August determined that we can no longer take the position that we were waiting for revenues to come in to our trust fund so cleanup phases can begin in 1983, that we had to have some action prior to the winter of 1982–83.

In August 1982, yes, the State requested the Federal Government to put this thing on the front burner.

Mr. **Levitas**. I have a document. Without objection, I will make it part of the record. It is a memorandum dated August 5, 1982 from Richard Bartelt, region V, Superfund coordinator, to Rita Lavelle, assistant administrator. Subject is the Seymour Recycling Plant, and attached to it are two briefing documents related to the Seymour matter.

[The following was received for the record.]

The first is a draft which relates to the State's recent request for expedited cleanup action and the second relates to the general situation of the project as it now exists, and in that first document the State's request for expedited cleanup, the following appears: "Recently, (Friday, July 30), the Governor's Office advised the region that the State is very anxious to move material off the Seymour site as soon as possible."

If that is correct, what they are saying is that somebody at region V is now speaking to the Governor's office—I don't know who—saying that the region, the Governor's office advised the region that the State is very anxious to move materials off the Seymour site and then the words "as soon as possible" are underlined.

Does that correspond to your recollection?

Mr. **Berger**. It was the end of July, the beginning of August, when that would fit in with, as I remember things, that the Board of Health was advising us that the situation was no longer stabilized and I was in, as a general part of my duties, in contact with region V's office on various issues.

Mr. **Levitas**. I don't know if you have seen this document.

Mr. **Berger**. No, sir.

Mr. **Levitas**. They are talking about their options on how to respond to State officials, and apparently at this time you are saying, look, you guys—speaking to the Feds—you got to get this stuff moved, get your litigation going, get some money, get a settlement, do something and expedite it, and the first problem that we identify is that care must be taken not to disrupt promising negotiations with generators.

Department of Justice has expressed serious concern for the potential adverse impact on such negotiations. They then say:

> The region recommendations, based on the above information, it appears that starting procurement activities in October is possible. A very substantial staff effort exceeding that associated with some other sites will be required, and a serious risk to promising negotiations could be posed by initiation of action on an expedited schedule. It may be difficult to justify a limited effort on a cost effective basis, but a justification based on safety or need under any scenario is defensible. We feel it is most appropriate to proceed under initial or source control remedial scenario. The Seymour project is currently moving acceptably within the system and on the dual track.

That is what this document says.

It is my understanding that in August of that year after this document that I just read from, Governor Orr attended a Governor's meeting in Washington, and upon his return to Indianapolis discussed with you a conversation he had had with Rita Lavelle concerning this matter. Could you relate that conversation to us?

Mr. **Berger**. It is my recollection that he was at a meeting where there were various Governors present and various members of the administration at a luncheon and after it, Rita Lavelle came over and introduced herself and said, "Governor, we are taking a serious look at this Seymour situation. We hope they can resolve it."

The Governor came back and he was pleased that, in fact, the assistant administrator knew about the situation and promised him, in fact, it was some sort of priority within the Administration.

Mr. **Levitas**. It is correct to say she indicated it was going to move quickly?

Mr. **Berger**. I can't recall if he used the word "quickly," but other than the fact that it was going to be getting some priority attention.

Mr. **Levitas**. Was the Governor accompanied by anyone else in that meeting with Ms. Lavelle?

Mr. **Berger**. I am not sure.

Mr. **Levitas**. Do you know who else accompanied him to Washington?

Mr. **Berger**. No, sir.

Mr. **Levitas**. I think I may have one more line of questioning, but I will defer them at this time and recognize the gentleman from New York.

Mr. MOLINARI. Yesterday, Ms. Smith made a statement that there was to be a tour of the site but the tour was canceled because of a smoking barrel which the State department of health had said was unsafe.

There was some talk of an evacuation of nearby residents because of this incident. Do you recall that, Doctor?

Dr. BLANKENBAKER. I recall it vaguely, it being brought to my attention, that there might be some need for evacuation. I think Mr. Hunt was directly involved with that.

Mr. HUNT. Yes, I was.

Mr. MOLINARI. Would you mind telling us your best recollection of what happened?

Mr. HUNT. Yes, in March 1980, I happened to be on site sampling an onsite well, and it came to my attention that there was, there were some barrels of materials that were reacting with moisture.

It was sort of a rainy day, and I also had, I believe, a couple city employees with me who were helping me purge the well, and so they contacted the city fire department, city of Seymour Fire Department, and the fire department came out and immediately started applying water to the area, to the drums. This only fueled the chemical reaction that was going on there, and it started reacting even more.

At that point, through some channels, the fire department was advised to evacuate downwind from Seymour Recycling so an area, the Snyde Acre Subdivision was evacuated, and it was that incident that prompted EPA to come on site and do the first emergency action that was done on site.

Mr. MOLINARI. Mr. Bob Gatte, can somebody identify him?

Mr. HUNT. He was the county health department sanitarian.

Mr. MOLINARI. What is he doing today?

Mr. HUNT. I believe he is retired.

Mr. MOLINARI. What was his job?

Mr. HUNT. A health department inspector responsible for inspecting quite a wide range of facilities and at times getting involved in operations like Seymour Recycling.

Mr. MOLINARI. There was an article that appeared in one of your local newspapers. It is a 1982 article written by Tina Vecera where she quotes Mr. Gatte as saying, "Maybe there has been too much leniency about the enforcement of health regulations at the site."

He was an inspector employed by the county. The article goes on to say when asked why it took so long to gather evidence, he said the department did not keep track of what was at the site because the State had staff limitations. He then perhaps makes a more serious charge by stating there was a tendency of the health department to be lenient when he saw the company representatives were being cooperative.

Those are somewhat serious charges there, and I would like to have an answer from whoever feels most competent to respond.

Mr. Lamm.

Mr. LAMM. Thank you.

Other than saying I don't know the specifics that Mr. Gatte perhaps is referring to, I think that our efforts to remedy the situation at Seymour over the years, in a variety of ways, perhaps in his view, could be viewed that way.

We were looking for opportunities at that time and treading essentially new ground in trying to remedy the situation. What we did not have was the experience or the moneys available to roll up with a truck and begin to move material, and if that was the level of expectation, we didn't have that and what we tried to do, as we have indicated, I think in our testimony, was to work primarily through the local circuit courts to resolve the situation. That is like we deal with many industries yet today, if there is a willingness to try and resolve the situation, we tend to go that route.

Mr. MOLINARI. I know that there has been a problem with resources.

Doctor, did the State have the necessary equipment to conduct tests on the chemicals at the site?

Dr. BLANKENBAKER. Through this whole period we have not. If you talk to the laboratory program, they are kind of like, as I said earlier, in public health we say we never have enough funds. Laboratory people, it seems like they never have enough equipment. We have had some serious problems in the laboratory area, some of which have only become known to me just here recently. A lot of that has to do with the separation of responsibilities, sometimes misunderstandings between the hazardous waste area and what it has to accomplish and the laboratory people and what they feel like they can accomplish.

We have been—I have received complaints on a number of occasions about our ability to handle samples and so forth, equipment not being utilized appropriately, and so forth, and one of the responses I have gotten from the laboratory people, was that things such as mass spectometers are complicated pieces of equipment.

When you prepare a sample that has to be reported that is acceptable for the kind of laws we are dealing with, it takes a significant training period. When confronted with this, the laboratory people have responded, "We are doing the best we can with what we have got. We are training ourselves, and we will get this resolved."

I am at this point concerned more beyond that, that we have some organizational problems. We have a traditional laboratory that is now trying to deal with environmental samples that it is really not prepared to deal with.

I think we have probably adequate equipment. I am not sure that we have proper organization. We have had the Centers for Disease Control come in and study this situation for us. They have made some recommendations, most of which are going to require a significant change of space and the manner in which we have our laboratory organized, and we have a planning program in place right now to accomplish that.

I think the answer is, we probably have adequate equipment to do what we need to do at this point. We don't have adequate trained personnel and the organization in place to accomplish that.

Mr. MOLINARI. Thank you.

A memo, dated January 9, 1979, that was addressed to Ralph Pickard from Jim Hunt with copies to David Lamm and others says, "As previously indicated, positive steps have not been taken to require the corporation to operate the incinerator within the specifications set forth by the Air Pollution Control Permit." Then, "In light of the attention which has been and still is focused on this operation, I believe this agency will be very vulnerable to criticism unless all the bases are covered."

"We strongly recommend that the following action be taken with regard to operation of the incinerator at SRC."

Mr. Hunt, since you are the author of this memorandum, what did you mean by what I have quoted? Were you referring to criticism by the League of Women Voters or the media?

Mr. HUNT. First of all, what prompted that memo to Mr. Pickard was continuing problems with Seymour Recycling operation's incinerator. This had been an ongoing problem. I had observed improper operation of the incinerator, and it had been brought to the attention of our Air Pollution Control Division. We had ongoing problems with them properly operating the incinerator.

With respect to being vulnerable to criticism, I think we need to so conduct our activities that we are a credible Agency, that what we do is defensible in terms of our protecting the environment. I don't think, although that is a long time ago, I don't think there was anything, any contact by the League of Women Voters or anyone else that prompted me to cover that base. I think we need to be a credible organization and protect the health of the citizens.

Mr. MOLINARI. I am pleased to hear that.

Mr. Hunt, you also indicated in a May 7, 1979, memorandum to the Seymour files that a transenvironmental's trailer No. 902, had no license plate and didn't have the required lettering when you inspected the site. The memo also says, "The trailer was loaded with drums."

What happened as a result of that inspection?

Mr. HUNT. I can't recall that incident.

Mr. MOLINARI. This involved 2 days of inspection on April 3 and 4 during 1974. The Seymour memo was authorized on May 7, about a month later; and it starts off by talking about Dick Zeiler and yourself making a trip to the Freeman Field Industrial Park located near Seymour, IN. While Seymour Recycling personnel were at lunch, you made an inspection of the facility.

We are referring to the Seymour Recycling Corp. site, are we not?

Mr. HUNT. I would think so, although I am still having trouble putting it all in context.

Mr. MOLINARI. We have had many experiences where trucks will take drums loaded with hazardous substances and usually, if they are going to dispose of them illegally, they do it in such fashion where you can't identify the truck. This particular trailer truck was loaded with drums and had no license plate. I would be interested in whether there was some followup and whether we know what happened to those drums.

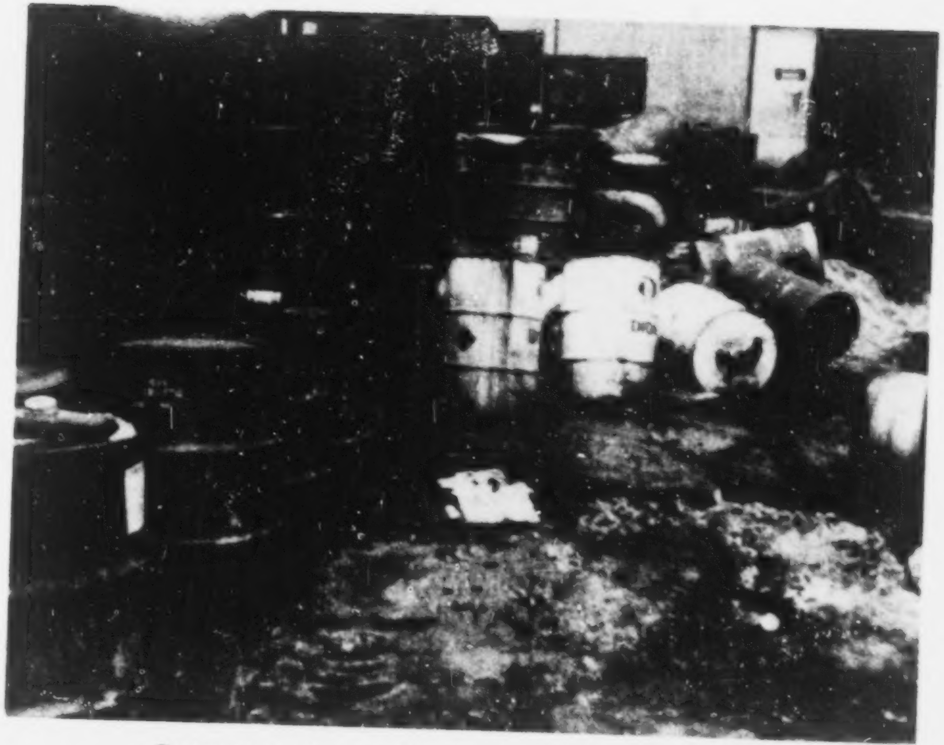
It is on page 2 of that memorandum, item No. 4, about the middle of the page.

Mr. HUNT. I don't recall what happened. There is no indication in the memo, and it is too long for me to remember.

Mr. MOLINARI. I don't seem to be able to trace what happened with that truck and the drums on the truck.

Will you please refer to your files, and I will ask the chairman to keep the record open, and after you examine the files, and you may provide us with an answer.

[The information follows:]



Seymour Recycling (June 15, 1979)

Seymour Recycling (June 15, 1979)

Seymour Recycling (June 15, 1979)

Mr. Molinari. Mr. Hunt, in reviewing all these memorandums, I get the distinct impression you were very busy, and I compliment you. You apparently were back and forth to that site repeatedly, and what I do find is that you were able to discover many, many violations that had been occurring on a rather consistent basis.

Referring now to a memo which you authorized dated July 10, 1979, addressed to the Seymour files, and you talk about an inspection that occurred June 15.

You noted that a tour of the facility revealed several spills, that the following samples and photographs were taken, and then you listed some 18 different samples.

Do you recall this inspection?

Mr. Hunt. Yes, I believe I recall that situation.

Mr. Molinari. How would you describe the results of the tour that you made that day? Was there anything special that stood out in your mind?

Mr. Hunt. If I recall, there were certainly more spills than usual, but it was not uncommon for material to be spilled. It was a very sloppy operation.

Mr. Molinari. What happened to the samples that were taken that day?

Mr. Hunt. I assume they were submitted to the lab. I really can't recall. I know that information and the violations that were noted there were later referred to the attorney general's office for enforcement, for followup.

Mr. Molinari. Let me try to refresh your memory. The memorandum indicates that samples were immediately iced and submitted to the State board of health laboratories on June 19, 1979 and samples 3 through 10, 12 and 13, were delivered to the industrial hygiene lab. Who owned that lab?

Mr. Hunt. A division within the Indiana State Board of Health.

Mr. Molinari. The memo also says the remaining samples were delivered to the water lab. Is this another division?

Mr. Hunt. Yes; at that time, our industrial hygiene laboratory was running mainly organic analyses and the water lab, which has traditionally in the past been running inorganic analyses, had continued to run those.

Mr. Molinari. I would like to make a request at this time that you furnish to the subcommittee the results of the testing of the samples that were referred to in that memorandum, as well as the photographs.

Mr. Hunt. The photographs may very well be in custody of the Jackson circuit court.

Mr. Molinari. Is there a reason why we couldn't secure the results?

Mr. Watson. The case is still pending in Jackson circuit court, and I believe if they were in fact submitted as evidence, they would be impounded by the court at this time.

Mr. Molinari. Wouldn't there be extra copies of them?

Mr. Watson. In most cases, they were Polaroid transfers taken at the time. There wouldn't even be a negative with them.

Mr. Molinari. I call your attention in the same memorandum that it was pointed out to Mr. Kovacs that transenvironmental vehicles were still not properly identified pursuant to SPC-17. So apparently that was a recurring problem, and again one that concerns me, because of the inability to monitor the transportation of toxic waste when trucks are not properly identified.

Dr. Blankenbaker, I would like to take you back to August 23 of last year, when you sent a memo to Patrick Berger, an administrative assistant.

Dr. BLANKENBAKER. He was the Governor's administrative assistant.

Mr. MOLINARI. In that memorandum, you mentioned that the cleanup plan submitted by Chemical Waste Management was unacceptable to both region V EPA staff, and the Indiana State Board of Health. Do you recall this?

Dr. BLANKENBAKER. That was a memo prepared for me by my staff to go down as an explanation of where we were. I do recall saying that statement however in terms of specifics, I am not sure, I will try.

Mr. MOLINARI. From memory, what do you recall as the reasons for your objections to their cleanup plan?

Dr. BLANKENBAKER. I don't recall the technical specifics.

What I recall is that staff's concern, I think, primarily was around the subsurface groundwater problem and as I indicated this morning, we did raise concerns.

We had some question whether the negotiation process was going to get all worked out, and as I recall in that memo, we even suggested the possibility of taking action ourself.

Mr. MOLINARI. Yes, sir, you did in fact.

You raised some very serious concerns that the Department of Justice and the EPA were moving too slow and that you might have to file your own suit against the generators.

Dr. BLANKENBAKER. Again, this was in response to Mr. Hunt's very vivid memorandum to me about the fact that we were under some false feeling that things were stabilized, that indeed they were deteriorating there, and as we headed into the winter, he was very concerned that something needed to be done immediately.

Someone else here may be able to give you the specifics regarding the staff's feelings on why——

Mr. MOLINARI. Can somebody tell me with more specificity why that cleanup plan was unacceptable? I would like to have an answer for the record.

Mr. LAMM. We can——

Mr. MOLINARI. Would you review your records and submit the reason in writing to the subcommittee?

I would like to ask you, Dr. Blankenbaker, about a special waste analysis report dated February 9, 1983, and in there are listed some concentration levels from materials that were taken from crushed drums.

Would you remember that offhand?

Dr. BLANKENBAKER. I am not sure that I remember that unless that was related to that truck accident.

Mr. KNOY. That is probably one of the Chemical Waste Management's analysis sheets.

Mr. MOLINARI. Yes, sir, indeed the sample material was taken from the Chemical Waste Management truck, involved in the accident which contained the crushed drums.

What I would like to do at this point would be to simply pass on to you the analysis sheets that we have and ask you to take a look at them and tell this subcommittee in your professional opinion which of these test results indicate concentration levels that would be considered serious.

Doctor, tell us if you believe the concentration levels are serious and can you give us the reasons why you believe they are serious?

Dr. BLANKENBAKER. I have to hedge a little bit in that this is the kind of thing that I rely on my staff.

Mr. MOLINARI. Is there somebody at the table that you could refer the question to for an answer?

Dr. BLANKENBAKER. One of the reasons that this was significant is that we did feel that most of these values were of a significant level.

Mr. MOLINARI. From my own limited knowledge, many of these are known carcinogens, but I am not aware in each and every case what the levels are serious. There are a number of them that appear to be rather high readings.

I wonder if we could get on the record somebody's opinion from the State board of health.

Mr. KNOY. Without going into each individual parameter, we reviewed this and were of the opinion that it was a certain concern.

Now, the material that is being transported in that accident was hazardous. Everything that leaves the site is hazardous. Certainly, when crushed drums left the site, they were hazardous.

Crushed drums were not just crushed steel. They contained a lot of residues. A lot of the waste that couldn't be emptied out of the drums were still contained in the drums. I attempted to get a health-risk analysis done on these analyses, but really couldn't get a good indication whether, for instance, the people who helped clean up the spill incurred special risk.

We sent it to the State toxicologist and they replied back. While there are certainly some bad things in here, but there are a lot of bad things that I have worked with that I don't see in here, so we were sort of hindered as far as having expertise to review this.

Dr. BLANKENBAKER. I might add that this was the report that I got on this—but I don't think I went through it specifically.

One of the difficulties here is that from these samples, you really can't get any idea of what kind of exposure someone might have had or with an accident such as this, and say it got dumped into a water supply, what level in the water that would result in.

When you look at a particular chemical, you know certain ones are dangerous, then you have to also know at what level. When you just have a sample of a particular chemical, you can say that is dangerous but it depends on the exposure, and how the person receives the exposure.

Mr. MOLINARI. Perhaps the more important issue is that we wouldn't be discussing this very subject today if it were not for the fact that there was a truck accident. This gets me back to you, Mr. Watson. In the conversation we had before the break you did say that although they were taking material to dumpsites other than those that had been agreed upon, you would have known about it a week or two later.

Would you mind going over that again for me?

Mr. **Watson**. As part of the consent decree, there were monthly reports made by Chemical Waste Management to the trustees and also to the board of health, the attorney general's office, the Federal Government.

In those monthly reports, there was a report as to what materials left the site, where they were going, essentially a recording of what would be manifest information. That was included in the monthly report which was submitted to the court.

This particular incident, the truck accident, occurred on January 25, I believe. The January report would be due February 15, and would have been submitted to the court. January was the first month of this year during which the cleanup was occurring, so the initial report would have been filed February 15.

And in that report, we would have seen, as we examined the report, the names of the sites where materials were being taken.

Mr. **Molinari**. That is, of course, assuming that Chemical Waste Management was filing a true and accurate report of what was occurring?

Mr. **Watson**. That is correct. Also assuming that their report would be accurate due to the fact that there was an EPA on-site coordinator who was also checking the information as it would be submitted in the report.

Mr. **Molinari**. How did this truck, if EPA was watching it, leave this site and head toward a site that was not an agreed-upon site to receive this material?

Mr. **Watson**. I think that is a question you will have to ask the EPA and the on-scene coordinator rather than the State of Indiana.

Mr. **Molinari**. Was the attorney general of Indiana overseeing these activities in any way?

Mr. **Watson**. We had no one on site at Seymour Recycling, no, sir. We received the monthly reports as they were submitted to the court.

Mr. **Molinari**. I am advised by staff that the on-scene coordinator does not check to see where the waste actually goes. It appears to me that we are relying upon an outfit that was of questionable background, with a record replete with instances where they have committed violations, and a whole host of questionable activities.

Mr. Watson, is there any investigation of Chemical Waste Management, or its parent corporation being undertaken by your office?

Mr. **Watson**. Our office has only recently employed two investigators, and I am not directed with knowledge as to what they are investigating at this time. I have no personal knowledge of investigation by our office of Chemical Waste Management at the present time.

Mr. **Molinari**. Is there anybody on the panel that is aware of any inquiry that is being conducted of Chemical Waste Management?

Mr. Lamm, I have one last series of questions with respect to Waste Management, Inc. You testified earlier that they have a number of landfills they operate in the State of Indiana.

Mr. **Lamm**. They have got, if my memory serves me correctly, at least three.

Mr. **Molinari**. Landfills.

Mr. LAMM. Correct.

Mr. MOLINARI. How about other disposal sites?

Mr. LAMM. Those are the disposal sites. No other recycling facilities.

Mr. MOLINARI. Could you furnish this subcommittee with a list of any and all sites owned and/or operated by Waste Management, Inc., or its subsidiary corporation, Chemical Waste Management, or any other subsidiary corporation that has not been named here today in the State of Indiana?

Mr. LAMM. Certainly, we would be happy to.

Mr. MOLINARI. Mr. Chairman, I have no further questions at this time.

Mr. LEVITAS. Thank you, Mr. Molinari.

I should state for the record that the documents that we are referring to have either been obtained by our committee from sources other than the Environmental Protection Agency and the Department of Justice, or from the Department of Justice and the EPA pursuant to the Memorandum of Understanding in response to the subpoena in the contempt of Congress matter that was related thereto earlier this year and last year.

In fact, my recollection is that it was a year ago tomorrow that the House of Representatives voted a contempt of Congress of Mrs. Burford. Much has happened since then.

Mr. Watson, you indicated that you thought that you would have found out about the wrong site or the unauthorized site, even without the accident, because of Chemical Waste's requirement to file a report with the court, and that would have, since the accident occurred in January, the report would have been due in February, and it would have been picked up at that time.

Mr. WATSON. Yes, sir.

Mr. LEVITAS. Mr. Molinari wondered whether or not that might actually have occurred, and according to the information I have got in a document dated March 15, from U.S. Environmental Protection Agency, region 5, subject, "Meetings on March 7, 1983," related to CWM surface cleanup, talking about the major deficiencies that have been observed, and the first one was the failure to file monthly reports with the court to date. It says that three reports are now overdue.

Was the State aware of those deficiencies? Did you get any of this information?

Mr. WATSON. Yes, sir, I believe we were. We may have received a copy of that memo, I am not sure, concerning the deficiencies.

Mr. LEVITAS. You might want to take a look at it.

Dr. Blankenbaker, you talked about the laboratory capability of the Indiana State Department of Health, and I am not really interested in getting very deeply into it, but in the event that you care to comment on the matter, the subcommittee has received information concerning an EPA inspector general's investigation concerning the use of certain new equipment—I think gas or liquid chromatograph, and a mass spectrometer that had been acquired for the purposes of testing toxic chemical wastes, and apparently they were being used to test milk samples and other related matters.

Would you care to comment on it now?

Dr. **Blankenbaker**. Sure; we are not at this point aware of what that report is going to say.

We did have the inspectors in, and they were given full reign of our facilities, inspected the entire situation, and interviewed a number of individuals. I don't believe that I had any discussion with the investigators and have not received anything from them. This reflects what I was referring to before.

We did have an understanding with the Environmental Protection Agency that if it was aiding in the efficiencies and use of some of this equipment then it could be used for other things, within reason, and there is some question about the interpretation of that. We did have a letter to that effect. And I think the point I want to make is that there is some difficulty in assessing the statistics.

We have been criticized because more samples hadn't gone through that machinery. When I talk to the chemists, they indicate that there are a number of extractions and so forth that are necessary before a sample goes through one of these very complex machines.

Also, as indicated earlier, there is a training process that is necessary before a chemist can actually conduct a test that will result in a value that will be acceptable for EPA and for use in courts and that kind of thing.

I am not satisfied at this point. I think that, as I indicated before, we have some organizational problems. We have some space problems. We have some training problems, qualification problems, and we are working on those at this time.

As to what the inspection, inspector general's report will be, I have no idea at this point.

Mr. **Levitas**. Are there sites in Indiana, today, which you consider to be as bad or even worse than the Seymour site was?

Dr. **Blankenbaker**. You are asking me?

Mr. **Levitas**. Yes, sir.

Dr. **Blankenbaker**. No; I don't think so. We have others that are maybe worse contaminated, like, for instance, the PCB situation in Bloomington. Almost every time we look somewhere in the Bloomington area, we find PCB's.

Mr. **Levitas**. What about Neal's landfill? That is the one that struck my attention.

Dr. **Blankenbaker**. That would be one of them. We have the Enviro-Chem facility in Boone County near Zionsville which was a recycling center that had similar problems and certainly may pose more of a water contamination problem than Seymour.

All along, we felt Seymour was our absolute worst problem, in terms of money and what it would take to clean it up.

Mr. **Levitas**. Did I understand you to say that you have now identified about 400 sites in Indiana, is that correct?

Mr. **Lamm**. Excuse me, Mr. Chairman. We have not specifically identified them.

We are working off what is called ERRIS data base, the emergency remedial response investigation system. One of the requirements under Superfund was for people who potentially handled or disposed of hazardous wastes, to report they did so. That reporting process produced this data base.

Each State across the country then is looking at that data base and investigating it. So, we are beginning to look at those sites that were identified to us as having a potential for being a Superfund site.

Mr. LEVITAS. Do you have any sites that are not on the data base that you are aware of?

Mr. LAMM. I almost can't answer the question. Probably there are.

We are uncovering sites at a rate that I find somewhat phenomenal myself. But there are more sites coming up every day.

Mr. LEVITAS. That is no reflection on you or the State of Indiana.

Mr. Molinari and I also comment to each other that every day you open the newspaper, and you find there is another site. And no matter where we go—we were in Dade County, FL, yesterday on a hearing involving urban mass transit, having nothing to do with Superfund, and they have built a new, very fine facility to repair and maintain their rolling stock at the end of the transit line. In the course of conversations, it turns out that, after they bought the site, they found out it was an abandoned hazardous waste site.

Every day you hear a story of that sort, which sort of re-emphasizes why we think this is a very important series of hearings.

Mr. LAMM. Oh, I would certainly agree. I think that is why I think in our testimony we have indicated the importance as far as we are concerned, with the Superfund activities.

I can only express it in this manner. Our 1982 data we collect off of our reports indicates in Indiana, about 3½ million tons of EPA identified hazardous waste generated yearly; 1982 was not the only year that was generated. It was generated in 1979, 1978, 1975, 1970, 1955, 1950.

My question is, where did it all go? We are just now beginning to look into and find out where it all went.

Mr. LEVITAS. I don't have any further questions of this panel.

I would like to say that the information which Mr. Molinari has called to our attention earlier today about the apparent lack of resources resulting in statutes of limitation and other deadlines having run, so that remedial action cannot be taken, is terribly disturbing, but not nearly so disturbing, frankly, as the proposed cutbacks on the most vital part of this total concern, which is the health research necessity to not only find out what is going on, but to provide some assistance to the victims of toxic chemical exposure in this country.

But I want to repeat that it is my intention, working with my colleague, to vigorously pursue that and do what is necessary to find out why we were misled in connection with the resource question, and to bring about an adequate funding level, particularly in the areas identified.

This record will be kept open for 2 weeks to receive any additional information which the witnesses may desire to submit by way of supplement, or in response to requests for supplementary information.

Again, I want to express my gratitude and appreciation for your efforts, and your being here today. I know it was at personal inconvenience, and my appreciation to Governor Orr for making it possible. I think it emphasizes the fact that there is a real commitment, and an increasing commitment, both by Federal and State officials, to see if we can do something about this hazardous material problem, and to see if we can avoid the recurrence of Seymour, IN, recycling sites and their aftermath.

The testimony yesterday and today really is going to provide a backdrop against which the succeeding hearings will unfold, as we hear from U.S. EPA, both present and former officials, Department of Justice officials, representatives of the private sector, the industry that has been involved in this matter. And at some point, no doubt, quite obviously, we will hear from Mr. Ruckelshaus as to where we go from here.

But your contribution in laying the stage for what ensues is absolutely essential if we are to provide the record necessary to make the recommendations and take the legislative action that we expect will flow from these hearings.

So, to each of you, my appreciation.

And if there is no further business to come before the subcommittee, the subcommittee will stand in recess subject to the call of the Chair.

[Whereupon, at 3:38 p.m., the subcommittee adjourned, subject to the call of the Chair.]

[The following was submitted for the record:]

File

STATE BOARD OF HEALTH

INDIANAPOLIS

OFFICE MEMORANDUM

DATE: May 20, 1977

FROM: Jim Hunt

TO: Files

SUBJECT: Seymour Recycling - Seymour, Indiana

On May 9, 1977, George Halloran and Jim Hunt, of the Water Pollution Control Division, and Joe Matouk, Air Pollution Control Division, made an inspection at Seymour Recycling, Seymour. Ken Goodwin, Ed Callis, Chris Hopkins and Dennis Sterling represented Seymour Recycling at the meeting. In addition Nick Bolz, Jackson County Health Department, and Bob Rust, Bob Rust, Inc., were also present. The purpose of the inspection was to get an up-to-date inventory of waste stored and observe operation of the incinerator.

An inspection was made of the drum storage field. It was noted that there were numerous drums of waste with open tops which were exposed to rainfall. There were also several metal and cardboard drums which were deteriorated to such an extent that safe storage and handling was not possible. A large quantity of containers of drugs and chemicals was still on the property, although Ken indicated that much of this material was being salvaged and sold or given away. This material was hauled to Seymour Recycling in the early 70's by Chemdyne Corporation of Hamilton, Ohio.

Mr. Goodwin also showed us where the HCP was stored. This material was reportedly delivered to the Seymour Recycling site by Chemdyne Corporation in 1973. Approximately 10,000 gallons of the waste is being stored in a 230-barrel glass-lined steel tank. He said the material was delivered in a heated tanker and became solid after being transferred to the present tank. The waste appears to be stored safely.

With regard to an inventory of the waste, Ken estimated the following inventory was on hand:

5,000 drums of setups
5,000 drums of hydrocarbons to be incinerated
1,500 drums of chromic acid, acids, and copper pyrophosphate to be treated
1,000 drums of styrene and toluene mixture
758 drums of latex
50 drums of cyanide
700 drums of unidentified old material
10,000 gallons of HCP waste
700 drums of MEK and toluene contaminated filters from IBM
1,000 gallons of setup benzoyl chloride in a tanker
2,000 to 3,000 drums of waste for solvent recovery
50,000 gallons of bulk waste for solvent recovery
1,500 gallons of bulk cyanate to be treated

At this point inventory is being reduced mainly by disposal of empty drums. Empty drums are made available by consolidating partial drums, sorting empty drums out of old inventory and transferring waste into bulk tanks. The waste in the bulk tanks is in turn incinerated. The Company indicated that since our January meeting 7,000 empty drums were shipped out. Scrap drums went to Kroot Scrap Metal in Columbus, and reclamable drums were sent to Floyd Kaylor, Cedar Grove, Indiana, and to the City of Louisville. The drums were drained and the sludge manually removed, but no further cleaning was done.

Concerning landfilling of waste, Ken stated that they had taken no waste to a landfill yet, but they had approximately 900 drums ready for inspection by the Solid Waste Management Section. A total of 5,000 drums had been set aside for possible landfilling.

The latex waste which Ken mentioned during the January meeting is still on hand. It was indicated that Chris Hopkins had developed a method for solidifying the waste so that it could be landfilled.

The PCB waste from Central Foundry was still on hand and Ken indicated he had requested permission to return it to the industry.

Seventeen drums of silver cyanide were shipped to Joseph Behr, Rockford, Illinois, for silver recovery. The waste was hauled in Seymour Recycling trucks and should be on the April hauling report.

Comparing inventory lists with that received from Goodwin in January, the Company had approximately 17,000 drums on hand and currently the Company still has 17,000 drums on hand. Although empty drums have been shipped out and waste has been processed, there has been no net gain because of incoming waste. It is difficult to understand how the Company's goal of 5,000 drums by September 1977 will be accomplished unless more progress than this is made.

With regard to proper labeling of the waste hauling vehicles there were at least four trucks on site that did not have the proper lettering and/or decals. On being confronted with this, Dennis Sterling explained that they did not receive some of the decals with the permit. This, of course, does not explain the lack of lettering.

The incineration of pesticides was also discussed. Goodwin emphatically affirmed that they were receiving no pesticide waste. He showed us a letter from the Company to the University of Kentucky refusing to accept the pesticide waste and he indicated that he had told Indiana University and Purdue University the same thing.

I requested that the open drums of waste be covered and all vehicles be properly labeled in accordance with SPC 17. Arrangements are being made to reinspect the facility on May 13 to assure that these violations are corrected.

JMHunt

cc: George Halloran
Joe Matouk
Guinn Doyle

Summary
Request for Enforcement Action
Seymour Recycling, Inc., - Seymour

Seymour Recycling, Inc., is located southwest of Seymour in the Freeman Field Industrial Park. Since 1971, the company has been in the business of reclaiming solvents and incinerating flammable liquid industrial wastes. In recent years the company has received various types of waste, some for which they have no treatment facilities. Over the years much of this waste has been stockpiled in drums on the company's property and many of the containers have deteriorated to the point of creating an eminent threat of failure. At last report approximately 17,000 drums of waste and 62,500 gallons of bulk waste were on the property.

The company has two incinerators, both of which are currently not in operation because of their failure to meet the limitations stipulated in the Air Pollution Control Operation Permit. It is not known how long it will take the company to upgrade the incinerators to meet these requirements but liquid waste for incineration is continuing to be delivered to the site at an estimated rate of 60,000 gallons per month.

The company also continues to receive waste for chemical treatment. With regard to treatment facilities available, the company has indicated that the CN destruction unit is ready for operation; however, application for construction of the chromic acid reduction and acid/base neutralization systems has not yet been made.

Furthermore, the staff believes that the drums and other containers of waste have been and are being stored on the property in a manner which constitutes an open dump.

+ Refuse Disposal Act
& EMA

It is the staff's opinion that Seymour Recycling, Inc., is violating SPCB Regulations SPC - 17 and SPC-18. Consequently, it is the staff's recommendation that this matter be referred to the Office of the Attorney General for a temporary and permanent injunction to prevent the company from receiving further waste at the site until such time as compliance with the Board's Regulations is achieved.

JMHunt/jm
7/19/77

Mike,
I discussed including violations of the Refuse Disposal Act and EMA and Bob Grant concurred and thought whoever presents the summary to the Board would verbally add them.

SUMMARY
Request for Denial of Permit Renewal
Seymour Recycling Corporation
Seymour

Seymour Recycling Corporation is engaged in the business of reclaiming solvents and treating industrial waste received from industries in at least ten different states. Prior to February 28, 1978, the Company possessed a valid SPC-17 Liquid Industrial Waste Hauler Permit and transported most of the waste to the treatment site in its own vehicles.

At the July 1977 Board meeting the staff requested that enforcement action be taken against the Company for violations of the Environmental Management Act and the Board's Regulations resulting from inadequate treatment and storage facilities. The matter was referred to the office of the Attorney General to seek a temporary and permanent injunction to prevent the Company from receiving additional waste until compliance with the cited Law and Regulations was achieved. Up to this date the staff and the Attorney General's Office have been working with the Company in an effort to finalize an Agreed Order.

At the time of referral to the Board, it was estimated that 17,000 drums of waste were on hand. In a letter received from the Company on February 28, 1978, it was estimated that in excess of 41,000 drums of waste were at the site in addition to 429,500 gallons of waste in bulk storage. In addition to the drum storage, a total of 52 tanks, having a combined storage capacity of 529,000 gallons are located at the site. Despite the seemingly adequate bulk storage capacity it has been revealed that on at least two occasions the Company did not have capacity to receive incoming waste and as a result, unauthorized discharges to the Seymour sewage treatment plant occurred.

As a result of the ongoing litigation, the Company's 1978 liquid industrial waste hauler permit was issued on an interim basis with an expiration date of February 28, 1978. The Company has continued to haul waste in the absence of a valid SPC-17 Permit. In view of the failure of the Company to make satisfactory progress in reducing the waste inventory and the pending nature of the action being taken by the Attorney General's Office, it is requested that renewal of the Company's liquid industrial waste hauler permit be denied.

JHunt/sw
4-18-78

STATE OF INDIANA) IN THE CIRCUIT COURT OF
) SS:
COUNTY OF JACKSON) JACKSON COUNTY, INDIANA

ENVIRONMENTAL MANAGEMENT BOARD)
OF THE STATE OF INDIANA,)
)
Plaintiff,)
)
-vs-) CAUSE NO. 78-C-53
)
SEYMOUR RECYCLING CORPORATION,)
)
Defendants.)

AGREED ORDER

This cause being heard on April 21 and April 25, 1978 pursuant to the complaint for Preliminary and Mandatory and Permanent Injunction and Application for Temporary Restraining Order by Plaintiff, Environmental Management Board, both parties being present with counsel and after consultation with the Court, the parties agree to a preliminary injunction according to the following terms to-wit:

1. That Defendant, Seymour Recycling Corporation is enjoined effective 11:00 a.m. April 25, 1978 for sixty (60) days from receiving, allowing or otherwise bringing upon its property located at G Avenue, West Freeman Field, Seymour, Indiana any recyclable or non-recyclable waste materials of any kind.

2. That Defendant is enjoined from allowing recyclable or non-recyclable waste materials of any kind to leave its property located at G Avenue, West Freeman Field, Seymour, Indiana during the above sixty (60) day period without first giving Plaintiff, or any named agent, notice of time of shipment, contents of any shipment, destination of any shipment including the name of

business receiving the shipment, and quantity of each material being shipped.

3. That Defendant will provide Plaintiff, or any named agent as soon as possible with physical evidence that any and all outgoing shipments were received at their destination points.

4. That Defendant is enjoined from allowing the shipping intrastate non-recyclable waste materials of any kind from its property located at G Avenue, West Freeman Field, Seymour, Indiana without prior approval by Plaintiff.

5. That before the expiration of the above sixty (60) day period, further hearing be held, in this cause at a time to be determined by the parties.

ALL OF WHICH IS ORDERED this _____day of _____________, 1978.

____
JUDGE, JACKSON CIRCUIT COURT

ACCEPTED:

SEYMOUR RECYCLING CORPORATION

BY:_____________________________
THOMAS J. LANTZ

Attorney at Law
209 West 2nd Street
Seymour, Indiana 47274

Attorney for Defendants

ENVIRONMENTAL MANAGEMENT BOARD

Ralph C. Pickard
____
RALPH C. PICKARD
Technical Secretary

THEODORE L. SENDAK
Attorney General of Indiana

BY:_____________________________
STEVE ZLATOS
Deputy Attorney General

Office of Attorney General
219 State House
Indianapolis, Indiana 46204

Attorneys for Plaintiff

STATE BOARD OF HEALTH

INDIANAPOLIS

C CE MEMORANDUM

DATE: May 17, 1978

THRU:

TO: File

FROM: Jim Hunt

SUBJECT: Inspection
Seymour Recycling Corporation
Seymour

MAY 17 4 10 PM '78
SANITARY ENGINEERING
DIVISION
STATE BOARD OF HEALTH

On May 9, 1978, I made an inspection at Seymour Recycling Corporation, Seymour, Indiana. William Kovacs, John Hall, and Dennis Sterling were contacted.

When I arrived at the site, Bill Kovacs was in a meeting with Dick Stone and Scott Durbin of IBM's Boulder, Colorado, and Lexington, Kentucky plants. During a previous visit, IBM had estimated the 2600 drums and an undetermined volume of bulk waste was stockpiled at Seymour Recycling. IBM is very concerned with the manner in which the Company has been handling the waste and is considering removing identifiable waste and disposing of it at an approved site. According to Durbin, all the waste shipped from the Lexington plant is low Btu waste containing a considerable volume of water. I toured the site with Kovacs and the IBM representatives. Three railroad tank cars had been brought in the provide additional storage, In addition, the Company has a 12,000 gallon rubber-lined tank which will be used for waste acid storage. The Company had placed plastic bags over most of the open-top drums. Considerable progress had been made in drumming up the lab chemicals, although there is work yet to do. There were still deteriorated cardboard drums on site.

Later, I met with Dennis Sterling and John Hall to discuss details of the waste currently being hauled out. We inspected the drum s lab chemicals ready for shipment. All the drums inspected had sealed metal covers and appeared to be satisfactory condition. Mike Ringstrom indicated there approximately 80 drums ready for shipment. Each drum of repackaged lab chemicals was numbered with a "R" prefix. We also inspected the HCP tank. The Company had not yet reinstalled the metal cover, but it was covered with plastic as previously.

Kovacs indicated that four stills were operational but none were operating. The Company intends to resume operation of the incinerator very shortly. In order to eliminate the need for an SPC-15 permit for the scrubber water treatment system, the Company is going to store the scrubber water and haul it to Ohio Liquid Disposal, Fremont, Ohio. Kovacs advised the IBM representatives that he intended to burn a 2 to 1 water-to-fuel ratio to keep the temperature down to 2,100 degrees

Fahrenheit. I reminded him that his Air Pollution Control Permit limits the Company to ten percent water and he would need to request a modification to burn a higher percentage of water.

A brief inspection was made at the railroads sidings in downtown Seymour and Freeman field where tank cars belonging to Seymour Recycling were previously located. There were five cars in Seymour and three in Freeman Field but it is not known whether the Company had removed some of the waste via tank truck. The numbers on the tank cars are as follows:

1. Downtown: NATX 22637, UTLX 48065, UTLX 39146, UTLX 59464, UTLX 48034.
2. Freeman Field: UTLX 39309, UTLX 39248, UTLX 48025.

cc: George Halloran
Guinn Doyle ✓
Andy Sunderlin

STATE OF INDIANA,
COUNTY OF JACKSON, SS:

IN THE JACKSON CIRCUIT COURT
CAUSE NO. 78 C 53

ENVIRONMENTAL MANAGEMENT BOARD
OF THE STATE OF INDIANA,
Plaintiff

vs.

SEYMOUR RECYCLING CORPORATION,
Defendant

FILED
JUN 30 1978

AGREED ORDER

This cause being heard on April 21 and April 25, 1978 pursuant to the complaint for Preliminary and Mandatory and Permanent Injunction and Application for Temporary Restraining Order by Plaintiff, Environmental Management Board, both parties being present with counsel and after consultation with the Court, and the parties having agreed to a preliminary injunction for sixty (60) days and the Court having granted an Ex Parte Application to Extend the Temporary Restraining Order for an additional ten (10) days to allow the parties to settle their differences by agreed order and the parties having done so, it is hereby ordered as follows:

1. The Temporary Restraining Order entered into by Agreed Order on the 10th day of May, 1978 as extended by Ex Parte Application is hereby dissolved.

2. Unless more specific requirements are set out for any material, Plaintiff shall have three (3) days from the time it is notified by Defendant to object to the bringing on site of any material. Should the Plaintiff not object within that three (3) day period, then the Defendant shall be free to bring onto site the material previously applied for. Should Plaintiff need additional time beyond the three (3) days to determine the permissibility of bringing on site of any material, then it shall notify Defendant of such need in writing within the three (3) day period of time. It is agreed that oral notifications shall begin the approval process and denial process, that any application, request, approval, or denial shall be sent in writing on the next working day.

3. Defendant, Seymour Recycling Corporation, is hereby permitted to operate its facility with the following specific requirements:

A. Hot Fuels - The Defendant shall be permitted to bring on site and remove from the operating site hot fuels. Hot fuels being defined as follows:

> Those products containing a high b.t.u. with 10% or less unburnable aqueous content. Hot fuels shall be limited to those fuels allowed to be burned under the existing burner permit.

(1) The inventory of hot fuels shall never exceed 200,000 gallons and the Defendant shall report monthly as to the hot fuels being burned by type and quantity used.

(2) Defendant shall apply for a modification of its burner permit for installation of an annular ring and such other modifications as will increase the efficiency and operation of the Plant. The Plaintiff shall not be bound to issue any modified permits and shall have full discretion as to the modifications' approval.

B. Aqueous Wastes - Defendant shall be allowed to bring on site and take from the site aqueous wastes with preapproval of Plaintiff on all incoming aqueous wastes. Aqueous wastes are those materials consisting mostly of water permitted to be processed on site under any permits. Plaintiff shall have three (3) days from the time it is notified by Defendant to object to the bringing on site of any aqueous wastes. Should the Plaintiff not object within the three (3) day period then the Defendant shall be free to bring onto site the aqueous wastes previously applied for. Should Plaintiff need additional time beyond the three (3) days to determine the permissibility of bringing on site aqueous wastes, then it shall notify Defendant of such need in writing within the three (3) day period of time. It is agreed that oral notifications shall begin the approval process and denial process, but any application, request, approval, or denial shall be sent in writing on the next working day.

Defendant shall be allowed to bring aqueous wastes onto the site only so long as there is a net reduction, down to minimum allowable inventories, in the aqueous wastes inventory for a given month. Should approval not be given on incoming aqueous wastes that have arrived at the facility, then the Defendant shall have sixty (60) days to dispose of the aqueous wastes at another site or return the wastes to the generator of such wastes.

The Defendant is applying for an annular ring modification for its burners. Defendant shall make application for permits for disposal of aqueous wastes within ninety (90) days. Should the annular ring be approved or should other applicable permits be granted, then Defendant shall reduce its aqueous wastes inventory to 400,000 gallons within ninety (90) days after any such permits are approved. Should no permits applicable to the disposal of aqueous wastes be approved, then Defendant shall lower its inventory of aqueous wastes to 400,000 gallons within one (1) year of the denial of the permits and to -0- inventory of aqueous wastes within eighteen (18) months of such denial.

C. Recyclable Material - Recyclable material shall be defined as that material for which there exists a current market and that material which can be processed under permits and with on-site equipment. Recyclables shall also include materials which can be directly resold without processing. Defendant shall be permitted to maintain as raw materials and as finished product those recyclable materials in an amount as follows: 1,000 drums, 250,000 gallons of bulk storage. Defendant shall apply with the Indiana State Fire Marshall's Office, Division of Flamable Wastes for permits for all applicable bulk storage.

D. Laboratory Chemicals - Defendant currently has in inventory laboratory chemicals. Defendant agrees that it will not bring additional laboratory chemicals on site and that it will submit within ninety (90) days of the date of this order a plan to dispose of the inventory of laboratory chemicals and it further shall dispose of its inventory of those laboratory chemicals within ninety (90) days after the plan is submitted and approved in writing by the Plaintiff.

E. HCP's - Hex - Defendant currently has on hand approximately 50 drums of HCP's and one (1) bulk tank. Defendant will notify Plaintiff at least three (3) days prior to any disposal of HCP's and will see that all HCP's are disposed of no later than one (1) year from the date of this agreement. Defendant is currently applying for permits to dispose of the

HCP's at another site and agrees to give copies of any and all permits to Plaintiff at the time such permits are granted and agrees that in the event permits are received to dispose of the HCP's off site then it will dispose of such HCP's that are on hand within thirty (30) days of the granting of those permits. Defendant agrees to store all drums of existing HCP's under roof and in tightly sealed containers. The bulk tank shall also be tightly sealed.

F. Incoming Drums of Materials - Defendant shall segregate and identify within three (3) working days those drums of materials received as new inventory. Any material not acceptable for disposal or treatment at Defendant's site will be returned to customers or disposed of with Plaintiff's approval within two (2) weeks of receipt.

G. Current Inventory of Drums - Defendant's affiliated company, EPC, currently has on file a permit application transfer for a sanitary landfill in Jennings County, Indiana. Should EPC receive approval for the landfill permit and modification thereof, then they shall begin disposal of the current inventory of drums, not otherwise allowed in inventory as part of this agreement, at that site with complete disposal to be not later than six (6) months from the permit approval by the State of Indiana. Should the State of Indiana deny the permit or EPC withdraw application for the sanitary landfill and modification, then the Defendant shall have one (1) year from such denial or withdrawal to dispose of its current inventory of drums.

H. Acid and Caustic Drums - The Defendant currently has approximately 2,000 drums of acid and approximately 500 drums of caustic on hand. The Defendant shall reapply for a neutralization permit within ninety (90) days. If the neutralization permit is denied, or Defendant withdraws the permit application, then the acid drums or the bulk stored material shall be disposed of off-site within one hundred and twenty (120) days after the denial of the neutralization permit, or withdrawal of the application by the Defendant. Should approval be given for neutralization, then Defendant shall have one hundred and eighty (180) days following approval to dispose of the materials. Defendant shall be permitted to maintain a working inventory of

34,000 gallons of bulk materials, including no more than 180 drums suitable for neutralization. The drums shall be properly identified, segregated and suitably maintained.

I. Waste Oils - The Defendant agrees to dispose of all existing waste oils in inventory within six (6) months of this order. New waste oils shall be covered by 3A and 3C.

J. Filters - The Defendant has already received approval for off site disposal and it shall continue the process of disposing of all filters, which disposal shall be completed no later than six (6) months of this order.

K. Cyanide - The Defendant shall not be permitted to maintain more than 10,000 gallons of cyanide in bulk. Cyanide shall be stored in accordance with S.P.C.-2

4. The Defendant shall send to Plaintiff a monthly report showing all incoming, outgoing and processed materials for the month. The report shall be submitted by the 15th day of the following month.

5. Should a substantial change in conditions occur, then either party may request a modification of this agreed order. All modifications shall be in writing.

IT IS SO ORDERED THIS 30th DAY OF June, 1978.

Robert R. Brown, Judge
Jackson Circuit Court pro t

The Plaintiff and Defendant hereby agree that the above order was entered into with their consent.

SEYMOUR RECYCLING CORPORATION
By:
Edward A. Pollen
308 West Second Street
P.O. Box 647
Seymour, IN 47274

Attorney for Defendant

ENVIRONMENTAL MANAGEMENT BOARD
By:
Ralph C. Pickard
Technical Secretary

THEODORE L. SENDAK
Attorney General of Indiana
By:
Steve Zatos
Deputy Attorney General
Office of Attorney General
219 State House
Indianapolis, IN 46204

Attorneys for Plaintiff

August 9, 1978

VIA CERTIFIED MAIL

Mr. William Kovacs
Seymour Recycling Corporation
P.O. Box 665
Seymour, IN 47274

Dear Mr. Kovacs:

Re: Status of Compliance

On July 20, 1978, Mr. James Hunt of this office made an inspection at Seymour Recycling Corporation, Seymour, Indiana. John Hall, Dennis Sterling, Joe Pittman and Mike Ringstrom were contacted. The purpose of the inspection was to evaluate the status of compliance of the operation with the regulations of state environmental agencies and the Court Order of June 30, 1978.

The inspection revealed the existence of a number of violations of the above-referenced Order and regulations. The following is a description of these violations:

1. The drums of "HCP" were not being stored under roof and several of the drums of HCP-contaminated soil were not equipped with lids. Furthermore, the bulk tank of "HCP" was not sealed tightly. The Order requires the drums of "HCP" to be stored under roof and all containers to be tightly sealed.

2. Two drums labeled as containing silver cyanide and nickel cyanide were located in a hallway south of the laboratory. A drum of acid was located a short distance from the cyanide. The existence of the above-described situation is in violation of Stream Pollution Control Board Regulation SPC-2 and the Order, in that all cyanide waste is to be properly isolated and is to be stored in bulk containers.

3. The analyses of material incinerated since June 30, 1978, were reviewed with Mike Ringstrom. The log maintained by the Company revealed that a batch of waste containing 100 ppm of lead had been incinerated. The Company's APC-19 Operation Permit limits the heavy metals concentration in a blended batch to 50 ppm.

4. In at least three locations, Mr. Hunt noted that liquid waste had been spilled onto the ground and there had been no apparent attempt to remove the spilled material. One of the spills involved material which was identified by Mr. Ken Goodwin, former manager, as benzoyl chloride from Velsicol Chemical Company. Samples of the waste were collected by Mr. Hunt and Mike Ringstrom for analysis. Until the identity of the material can be confirmed, it should be considered extremely hazardous and every attempt should be taken to prevent its release into the environment. None of the spills were reported as required by Stream Pollution Control Board Regulation SPC-16.

5. At various locations, it was noted that drums containing liquid waste, including the above-described "benzoyl chloride," were not equipped with lids to prevent exposure to the environment. Failure of the Company to properly store the above-described waste represents a threat to the environment and consequently a violation of the Environmental Management Act.

6. Mr. Hunt observed that the Company had constructed a concrete slab with one roll of cement blocks around its perimeter. It was explained to him that the facility was constructed to dewater aqueous sludges. Please be reminded that Stream Pollution Control Board Regulation SPC-15 requires the Company to secure a permit prior to construction of a sludge dewatering system. It is requested that the Company cease construction of this facility until the necessary permits or approvals have been secured. Mr. Dewey Rissler of our Plan and Specification Review Section should be contacted relative to this matter. Mr. Rissler's phone number is 317/633-0769.

7. Your Order requires the Company to properly identify, segregate and suitably maintain drums of acid and caustic waste. It was observed that one drum of acid was leaking. In addition, liquid waste in various containers of a type normally used for acid materials was observed throughout the drum storage area. Many of the containers were badly deteriorated. It is requested that the Company review and upgrade its waste acid and caustic storage practices to achieve compliance with the Order.

Your immediate attention to the above-stated violations is requested. If you have any questions, please contact Mr. James Hunt at 317/633-0762.

Very truly yours,

Ralph C. Pickard
Technical Secretary
Environmental Management Board

JMHunt/rm
cc: Jackson County Health Department
Mr. Joe Pittman
Mr. Steve Zlatos
bcc: Andy Sunderland
George Halloran
Dewey Rissler
Ray Bailey

September 14, 1978

Joe Krieger

Jim Hunt

Discharge to Sanitary Sewer
Seymour Recycling Corporation, Seymour

On September 7, 1978, at approximately 8:45 a.m., I received a call from Gary Hukill, Supervisor of the City of Seymour Sewage Disposal Plant. He advised that at approximately 8:00 a.m., on the same morning, he noticed a pink material in the primary settling tank which had a solvent odor. The secondary tank was brown and the final effluent was turbid. Gary collected samples and refrigerated them for our analysis. Seymour Recycling Corporation was suspected as the source and Gary contacted the Company.

On the same morning, I called Seymour Recycling Corporation and talked to Bill Kovacs. Bill indicated that one of their employees on the night shift had pumped 5,000 to 6,000 gallons of contaminated surface water into the city sewer from a ditch east of the office. Bill indicated that the Company had been discharging surface water to the city sewer after analysis to assure compliance with the Seymour Sewer Ordinance. However, this time an employee took the initiative to pump the water from the ditch after being advised to "clean-up" the area in anticipation of visitors touring the site.

At first, Kovacs questioned whether the waste came from Seymour Recycling; however, Gary visited Seymour Recycling and saw material of the same appearance as that at the treatment plant. On the afternoon of September 7, the Company sent a vacuum truck to the treatment plant and commenced pumping the waste off the surface.

In the afternoon of the same day, I again called Gary Hukill to determine the status of the clean-up and the effect the waste had on the plant. Gary stated that Seymour Recycling Corporation was pumping all baffle tanks to remove the waste. He said the effluent had a solvent odor and a DO of 0.1 to 1.0 mg/ml. On the following day, I called Seymour Recycling Corporation and talked to Bob Riggs. Bob stated that approximately 4,500 gallons of wastewater had been removed from the sewage treatment plant and was being stored in a tank for future disposal. The Company's chemist, Darin Green, indicated that the G.C. analysis showed no detectable concentrations of styrene and no other compounds had been identified.

The samples collected by the Seymour Sewage Disposal Plant on September 7, were delivered to the State Board of Health on September 8, at approximately 2:00 p.m. Although only a portion of the results have been received from the lab, it has been revealed that the waste contained styrene, toluene, n-propylalcohol and trace amounts of xylene and perchlorethylene.

This is not the first time we have become aware of problems resulting from uncontrolled discharge of waste to the Seymour Sewage Treatment Plant by Seymour Recycling Corporation. In at least two incidents under Mr. Goodwin's management, hazardous wastes were discharged to the sewer resulting in an upset of the sewage treatment plant and on one occasion, forcing a family to evacuate their home because of vapors entering the basement through the sewer system. In each incident, the management explained that the material was discharged without the authorization of the person in charge. I have suggested to Seymour Recycling Corporation and Gary Hukill that it might be advisable to place locks on manhole covers so that only the person in responsible charge would have access to the sewers.

I would suggest that a letter be sent to the City of Seymour advising that Seymour Recycling Corporation was violating the City's Sewer Ordinance by discharging flammable waste into it. I would also suggest that the City require Seymour Recycling Corporation to immediately institute measures to prevent future unauthorized discharges to the sewer system.

JMHunt/ds
cc: SPC 17 Files
Jim Hunt

STATE BOARD OF HEALTH
INDIANAPOLIS

OF...E MEMORANDUM

DATE: 9-28-78

TO: Files

THRU:

FROM: Jim Hunt

INSPECTS 9-26 + 9-27, 1978

SUBJECT: Seymour Recycling - Seymour

INSPECTION 9-26-78 9:30PM - 11:15 PM

Contacted Bill Kovacs, Mike Ringstrom Joe Pittman

A. INCINERATOR

The incinerator ~~was~~ operating. The liquid was "raining" ~~foam~~ from the stack - to such an extent that the area surrounding incinerator was soaked and puddles of brown-colored liquid was on the ground. Kovacs plained that he thought they had "dropped" the demister and the upper scrubber plate. The stack temp. was 1700 °F. I collected a sample from the fuel inlet to the filter.

I reviewed the analyses with the night chemist Mike Ringstrom. The most recent analysis was for a sample collected on 9-26 at 8:00AM from the mix Tank. The only analyses performed were Cr - 100 ppm and Pb 46. Mike couldn't find any other analytical results. While I was talking to Kovacs, Mike ran ~~a~~ started analyzing ~~the~~ a portion of the sample I had collected. He reported that the chlorinated content was 11% + ~~2/~~ - 2%.

Noted spill - which is described later.

INSPECTION 9-27-78 1:00 PM 2:30 PM

Contacted - Bill Kovacs, Darin Green, Joe Pittman ~~memoranl~~

(Over)

i Incinerator

Joe Pittman advised that the incinerator was shut down at 7 AM because it devloped a hot spot (refractory needed repair). The ~~water~~ liquid was still puddled around the incinerator and I took pictures.

B. Stills

The Brighton still was just being shut down because the batch was completed. None of the other stills were operating but Kovacs said it was because there was no material.

3. LAB Analyses

I talked to Darin Green and he acknowledged that the fuel had been burned prior to analysis

D. Spill

I had noticed a spill of black material in a ditch in the center of the property during my inspection on the previous night. At that time Kovacs told me it was oil ~~from~~ (Pittman added from Kendall) and there was only a drum involved. Pittman acknowledged there was more than a drum involved. I had an aromatic smell. Kovacs assured me it would be cleaned up the following day (9-27)

On the 27th the material was still in the ditch and Kovacs indicated they ~~had~~ couldn't get the pump working. I reminded him that he hadn't complied with SPC 16. I collected a sam for analysis. The waste was at least 4"± deep [illegible] several hundred gal

Cont. Inspection 9-27

had been spilled.

E. Waste hauling vehicles

Three of Transenvironmental's vehicles were on the property:

1. #1094 was a van which was being unloaded
2. #187 Lic T04361 was loaded with polyol from Olin Chemical, Brandenburg, Ky. There was no lettering.
3. #191, T05-146 tanker OK

F.

Andy Sunderland had made an inspection on 9-25-78. Darin Green ~~had~~ gave him the following analysis for the "unknown" tanker that was being heated on 9-20. (See 9-20 inspection report.) The analysis was as follows:

39% methyl methacrylate   1.103 sp. Gr.
12% methyl acrylate
11% acrylonitrile (vinyl cyanide)
3% trichloroethylene
10% higher boilers
22% solvated rubber

Andy also stated APCD had received a complaint from a Mr. Kastings. He and Ron Sorensen visited with Kastings on 9-20. The complaint was with regard to fumes from the T

(over)

On 9-26, Kovacs had indicated the Company had incinerated over 35,000 gallons of fuel and 12 > gal (?) of aqueous material over the weekend. ~~Apparently~~ The Company is really pushing the incinerator and that may be the source of the complaints.

Photographs were taken. Jim Hunt

10-2-78

I contacted Ron Sorensen and discussed the spill.

October 4, 1978

VIA CERTIFIED MAIL

Hon. Donald H. Ernest, Mayor
City of Seymour
City Hall
220 North Chestnut
Seymour, IN 47274

Dear Mayor Ernest:

Re: Unauthorized Discharges
Seymour Recycling Corporation

On September 7, 1978, Mr. James Hunt of this office received a phone call from Mr. Gary Hukill, Operator of the Seymour Sewage Disposal Plant. Mr. Hukill reported that a pink material having a styrene odor had entered the sewage disposal plant and was causing operational problems. It was subsequently established that the source of the waste was Seymour Recycling Corporation, Seymour, Indiana.

Samples of the waste at the sewage disposal plant were collected by Mr. Hukill on September 7, and delivered to the State Board of Health laboratory on the afternoon of September 8. Analysis of the samples revealed that the waste contained styrene, n-propyl alcohol, toluene, xylene and perchloroethylene in addition to as yet unidentified volatile materials.

Please be aware that all the compounds listed above, with the exception of the perchloroethylene, are flammable and represent a hazard to the employees of the sewage disposal plant. Interference with biological treatment is also probable, which could result in NPDES permit violations, thus subjecting the City to enforcement action and civil penalties. As you are aware, the City's sewer ordinance prohibits the discharge of flammable materials to the sanitary sewer and consequently, the subject incident is in violation of said ordinance. It is strongly recommended that the City of Seymour institute measures to ensure that unauthorized discharges to the sanitary sewer system by Seymour Recycling Corporation do not continue to occur. It is suggested that the following action be taken:

1. That Seymour Recycling Corporation be required to install locks on the manhole covers and seal all floor drains located on corporation property. The City of Seymour should provide the locks and keep custody of the keys.

2. That, should a situation ever arise which necessitates discharge of industrial waste from Seymour Recycling to the sanitary sewer, a written request should be made by Seymour Recycling and approval granted by your office prior to said discharge. We would also suggest that the Corporation be required to mail this office a copy of the request letter at the same time that the request is made to your office. The request should include the volume and an analysis of the wastewater. The analysis should address every parameter outlined in the City's sewer ordinance.

3. That a representative sample of the wastewater be provided to the operator of the sewage disposal plant prior to approval by your office.

If you have any questions relative to this matter, please feel free to contact Mr. James Hunt of this office at 317/633-0762.

Very truly yours,

Joseph C. Stallsmith, Chief
Enforcement & Operations Branch
Division of Water Pollution Control

JMHunt/cgp
cc: Mr. Gary Hukill
Mr. William Kovacs
Mr. Ralph Pickard
bcc: George Halloran
Jim Hunt

w/5
cgp
10/4

STATE BOARD OF HEALTH

INDIANAPOLIS

OFFICE MEMORANDUM

DATE: October 24, 1978

TO: Jim Hunt ✓

THRU: John Winters WB

FROM: Dave Shipe

SUBJECT: Seymour Recycling Triethanolamine Spill
Seymour, Jackson County

On September 29, 1978, at 10:15 a.m., this office received a call from Mr. John Hall, Chemist at Seymour Recycling, to report a 200-300 gallon alkanolamine (triethanolamine) spill at their facility. Mr. Hall stated that at approximately 4:00 a.m., that morning a tank had been inadvertently overfilled. The spilled material discharged to a blind ditch. He further stated that the material was contained in the ditch and was currently being cleaned up. Mr. Hall stated that the material was an oil-like material and was being skimmed off the water and placed in another tank.

After researching our available reference materials. It was learned that the material was only slightly toxic, soluble in water, lighter than water and a strong base. It appeared that the material did not pose any serious threat if properly cleaned.

On ~~September~~ Oct 6, 1978, a follow-up inspection was conducted. Only a small portion of the material remained in the ditch. Mr. Hall was advised to remove the remaining portion, which he immediately had done.

During the follow-up of the minor spill, an inspection was conducted of other areas of the facility. Thousands of drums of hazardous material, many leaking or completely rusted out, were observed at the facility. Unknown materials were observed pooled at many locations among the drums. When asked what a certain colored material pooled on the ground was, Mr. Sorison, Manager, could not answer. Strong chemical odors were very noticeable even though there was a breeze to dissipate the vapors. It is very apparent that the situation at Seymour Recycling is precarious and necessitates very close monitoring of the situation. It is the opinion of this staff member, that a serious health and environmental threat currently exists at the facility.

DShipe/jah
cc: Mr. Earl Bohner
Mr. Joseph Stallsmith
Mr. Joseph Krieger
Mr. Dave Shipe

STATE of INDIANA

ENVIRONMENTAL MANAGEMENT BOARD

INDIANAPOLIS 46206

1330 West Michigan Street
(317) 633-4420

November 16, 1978

TO: Hon. Theodore L. Sendak
Attorney General

Attn: Michael Schaefer
Assistant Attorney General

FROM: Ralph C. Pickard
Technical Secretary

SUBJECT: Seymour Recycling Company

On June 30, 1978, the Board and Seymour Recycling Company entered into an Agreed Order in Jackson Circuit Court. It is the opinion of the staff that Seymour Recycling Company has violated Paragraph E of the Order by permitting the leakage of hexachlorocyclopentadiene (HCP) onto the site. Additionally, the Defendent has permitted the leakage of octachlorocyclopentene (OCP). As a result of these leakages, there is a possible threat to the ground water.

Additionally, there have been at least 11 spills of unidentified liquid wastes, scrubber liquor and triethanolamine, with only one spill reported to this office.

Accordingly, it is requested that your office seek appropriate remedies for the violation of the Order of June 30, 1978, and any and all violations of IC 13-7 and those regulations promulgated thereunder. For further information, please contact Mr. Jim Hunt at 633-0762.

cc: Mr. James Hunt
Hearing Commissioner

STATE of INDIANA
ENVIRONMENTAL MANAGEMENT BOARD
INDIANAPOLIS 46206
1330 West Michigan Street

November 28, 1978

Mr. Craig Sparks
Arent, Fox, Kintner, Plotkin & Kahn
Federal Bar Building
1215 H Street, N.W.
Washington, D.C. 20006

Dear Mr. Sparks:

Re: Seymour Recycling Corporation
Seymour, Indiana

This is in response to your November 7, 1978, letter to Mr. James Hunt of the Division of Water Pollution Control concerning the environmental problems in existence at Seymour Recycling Corporation, Seymour, Indiana.

Following is a brief account of the action taken by this agency with regard to Seymour Recycling Corporation:

(1) The Environmental Management Board declared the operation an eminent health hazard and as a result, an Order was issued by the Jackson Circuit Court on June 30, 1978. The Order places the Corporation under stringent restraints with regard to the receipt of new material and provides time schedules for reducing inventories to satisfactory levels.

(2) The staff has documented that several spills of industrial waste have occurred at the site subsequent to June 30th and consequently, the Indiana Stream Pollution Control Board is referring the matter to the Office of the Attorney General for the appropriate enforcement action.

(3) With regard to the Corporation's incinerator, a new provisional permit, which will supersede the existing permit, is pending. It is anticipated that the provisional permit will be of short duration and will require more sophisticated instrumentation and additional facilities for preparing the waste for incineration.

(4) Residential and commercial wells are being periodically sampled and analyzed by this agency to detect any pollutants percolating into the groundwater from the site. A hydrogeological evaluation of the site has been made to determine its potential for contamination of the underlying groundwater.

(5) Frequent detailed inspections are being performed by various departments within this agency to determine if compliance with the Order and the Board's regulations is being achieved.

Please be assured that we are aware of the environmental hazards which exist at Seymour Recycling and this agency has taken every measure within its power to compel the Corporation to eliminate the hazard and to protect the public during the clean-up period. We will continue to maintain a close surveillance of the site until the hazard has been eliminated.

If you have any further questions relative to this matter, please feel free to contact Mr. James Hunt at 317/633-0762.

Very truly yours,

Ralph C. Pickard
Technical Secretary

JHunt/cgp
cc: Jackson County Health Department
Charles Grigalauski, U.S. EPA
Steve Zlatos, Office of the Attorney General

STATE of INDIANA
ENVIRONMENTAL MANAGEMENT BOARD

INDIANAPOLIS 46206
1330 West Michigan Street
(317) 633-4420

December 15, 1978

TO: Hon. Theodore L. Sendak
Attorney General

Attention: Mr. Mike Schaefer
Assistant Attorney General

FROM: Ralph C. Pickard
Technical Secretary

SUBJECT: EMB vs. Seymour Recycling, Inc.
Cause No. 78 C 53
Jackson Circuit Court

In response to a request made by Mr. Steve Zlatos of your office, the following are comments relative to the status of compliance of Seymour Recycling Corporation with the Agreed Order of June 30, 1978:

Item 2 - NOTIFICATION OF INTENT TO ACCEPT WASTE

A total of approximately 80 "Notifications of Intent to Accept Waste" into the Freeman Field Site have been received from Seymour Recycling Corporation. Approval was granted for 57 of the waste, 14 waste streams were denied and seven are pending further information.

It was established early in the process that the information provided by Seymour Recycling was not reliable, thereby, making it necessary for the staff to contact each generator for verification. The Order requires the Corporation to follow-up a verbal application, in writing, on the next working day. Of the 80 notifications, five of them have been confirmed in writing. The staff has not been confirming the approvals in writing since the Corporation has authority to bring material on site if we do not respond within three days. The staff has attempted to follow up on each denial, in writing, within the three-day reponse period. However, this has been complicated by the fact that much information provided by the Corporation has been unreliable and/or incomplete. We have on file shipping papers from Essex Group, Inc., Vincennes and Borg Warner Chemicals, Washington, West Virginia, specifying Seymour Recycling Corporation, Seymour, Indiana, as the destination point for drums of hazardous waste. Seymour Recycling Corporation has not notified this office of its intent to accept these materials. The waste was shipped on July 7, August 3, August 4 and August 7, 1978.

Item 3A - HOT FUELS

The Corporation has complied with the 200,000 gallon limit for "hot fuels." Satisfactory monthly reports have been received from the Corporation. In addition to incoming material, an undetermined quantity of fuel has been made available by identifying and pumping waste from the general inventory of drums.

Item 3B - AQUEOUS WASTE

Application for the "annualar ring" modification of the Corporation's incinerator was made to the Air Pollution Control Board on August 28, 1978, well within the 90 day period specified by the Order. The Construction Permit was issued on September 13, 1978. Application for an Operation permit was made to the Board on October 24, 1978, and issuance of an Operation permit is in process.

With regard to maintaining the 400,000 gallon inventory level of aqueous waste, the amount of waste on hand as of June 13, 1978, was 451,000 gallons. The Corporation has advised that this level has been reduced to below 400,000 gallons by trial injection of aqueous waste into the incinerator and by reclassifying several tanks of waste to "hot fuel."

Item 3C - RECYCLABLE MATERIAL

The Order limits the Corporation's inventory of recyclable waste to 1,000 drums and 250,000 gallons in bulk. Based on the initial inventory provided by the Corporation on June 13, 1978, and the monthly report submitted, there was approximately 129,150 gallons of recyclable material on hand as of October 31, 1978. We do not have sufficient information to determine how much of the waste is being stored in drums and therefore, must assume that the Corporation is in compliance with regard to the recyclable waste inventory.

Item 3D - LABORATORY CHEMICALS

We have received no information indicating that Seymour Recycling has accepted laboratory chemicals at the Freeman Field site since June 30, 1978. On July 31, 1978, the Corporation requested approval to dispose of the laboratory chemicals at Nuclear Engineering, Sheffield, Illinois. Written approval was granted by the EMB on August 16, 1978. The Order requires the Corporation to dispose of the laboratory chemicals within 90 days of approval or by November 16, 1978. As of this date no laboratory chemicals have been shipped to Nuclear Engineering. The Corporation has reported that approximately 89 drums of chemicals have been shipped to Aqua Air labs, Charlotte, North Carolina, for salvage. However, this method of disposal was not included in the Agency's approval.

A portion of the laboratory chemicals are located in bunkers and buildings. The Corporation has indicated that these materials are not a threat to the environment and therefore, do not need to be disposed of at this time. Although under roof, the containers are deteriorating and prompt disposal is necessary. The Order addresses all laboratory chemicals on site.

Item 3E - HCP's - HEX

The drums and bulk tank of "HCP" (hexachlorocyclopentadiene) waste has not been disposed of. The original applications for out-of-State permits were apparently denied and the Corporation has indicated that alternate approvals have not been secured.

The Order requires the Corporation to store the HCP "under roof and in tightly sealed containers." Numerous inspections have revealed that HCP is not being properly stored. Initially the drums were being stored outside. Later the HCP was moved under roof; however, a recent inspection revealed that several of the drums were not covered and one drum had been damaged during transfer. The HCP is highly corrosive and the drums are showing signs of deterioration.

Item 3F - INCOMING DRUMS OF MATERIAL

It is assumed that the incoming drums are being responsibly segregated and identified; however, a more detailed inspection in this area should be made.

Item 3G - CURRENT INVENTORY OF DRUMS

Very little progress has been made in addressing the disposal of the estimated 30,000 drums of material identified as set ups, resins and nonflammable enamels. The most recent inspection revealed that approximately 190 drums of set ups had been identified and prepared for inspection. The drums are continuing to deterioriate, the contents leaking into the soil. Numerous spills and at least one fire has resulted from the escape of waste from the drums.

The Order requires the Corporation to dispose of the current inventory of drums of waste according to one of two time schedules. The first time schedule is based on the assumption the EPC will receive a permit for a landfill in Jennings County. The alternative is to dispose of the drums of waste at another site within one year of denial or withdrawal. On July 25, 1978, Mr. Carl Garrett, current owner/operator of the landfill, requested that his application for transfer of the permit to EPC be withdrawn. Mr. Garrett's request was granted via our letter of August 22, 1978. Since Carl Garrett rather than EPC holds the current landfill permit, only Mr. Garrett has the authority to apply for the transfer and withdraw the application. Therefore, we interpret that Mr. Garrett's application withdrawal terminates the permitting process and makes the second alternative operative. Our letters of November 6, and 9, 1978, set forth procedures for securing approval for landfill disposal in Indiana. Our November 16, 1978, letter outlines what we believe to be a responsible time schedule for disposing of the drums by August 22, 1979. Copies of these letters are attached.

Item 3H - ACID AND CAUSTIC DRUMS

An incomplete application for a construction permit for an acid/caustic neutralization system was submitted to our Agency on August 8, 1978. Additional information was requested, however, the Corporation failed to respond to this request. As a consequence, the Construction Permit was denied and the plans were returned. Pursuant to provisions of the Order the Corporation is required to dispose of the acid/caustic waste within 120 days from the date of the denial or February 13, 1979. As of this date, a revised application has not been submitted to this agency.

Of additional concern, is the manner of storage of the waste acid and caustic material. The Order requires the Corporation to properly identify, segregate and suitably maintain the inventory. The Corporation has made some progress in segregating the drums of acid waste from the general inventory of drums. However, inspections made by the staff have revealed that much of the acid waste is being stored in improperly identified deteriorated drums. The Corporation has been verbally reminded of the requirements of the Order and requested to submit a time schedule for eliminating the hazard. It was suggested that drums of compatible waste be transferred to bulk tanks for safe storage until treatment or off-site disposal can be accomplished. We have no knowledge of measures which have been taken to eliminate this hazard.

Item 3I - WASTE OILS

We have been advised by the Corporation that all identified waste oil has been disposed of by incineration or shipped off-site.

Item 3J - FILTERS

It is our understanding that all "filters" have been disposed of at the Caldwell Landfill, in Morristown, Indiana.

Item 3K - CYANIDE

All drums of waste cyanide were reported to have been shipped to an out-of-state disposal site prior to June 30, 1978; however, the staff found two drums of cyanide waste near the lab. It is understood that this waste has been properly isolated.

The bulk cyanide remains on site and is reportedly partially treated. Seymour Recycling Corporation has not expressed an intent to use the existing cyanide facility. Prior to June 30, 1978, a pipe on one of the storage tanks was damaged resulting in the release of a considerable volume of cyanide waste to the environment. In order to prevent a similar occurrence in the future, we requested that the Corporation install a valve on the pipe. As of this date, the valve has not been installed.

A tank trailer containing acrylonitrile, a cyanide compound, was found on-site during one of the inspections. Initially, the waste could not be identified by the Corporation and was not isolated in accordance with Regulation SPC-2.

Item 4 - MONTHLY REPORTS

The Corporation has submitted monthly reports as required by the Agreed Order. However, the reports did not show receipt of the unauthorized waste from Essex Group and Borg Warner Chemical. It is interesting to note that Transenvironmental Corporation did not report hauling these wastes.

Item 5 - VIOLATIONS OF REGULATION SPC-16

On November 16, 1978, the office of the Attorney General was advised that several spills have occurred at Seymour Recycling Corporation since June 30, 1978. Notification and clean-up of the spills was not performed in accordance with Regulation SPC 16. Following is a brief account of the spill incidents:

On July 20, 1978, an inspection made by James Hunt revealed that waste identified as benzoyl chloride (later identified as HCP) was spilled on to the soil as a result of the Corporation's attempt to remove the material from a tank trailer. In another area the company acknowledged knocking over several drums of liquid waste with a bulldozer, spilling the contents on to the soil. There was no evidence that the Corporation had attempted to clean up these spills. Several drums were observed without lids. The Corporation was advised of the failure to report and clean up these spills, verbally and via our letter of August 9, 1978.

On August 4, 1978, James Hunt and representatives from the Division of Air Pollution Control made an inspection of Seymour Recycling Corporation. The spills observed on July 20, 1978, were covered with an absorbent material but had not been cleaned up. A trailer van was observed with an unidentified waste material leaking from it. Several drums were observed without lids.

On August 10, 1978, James Hunt and Mark Herbert of the Division of Water Pollution Control made an inspection at the facility. The incinerator was operating and scrubber water was "raining" from the stack, forming puddles of liquid in the vicinity of the incinerator. At least two other spills were observed. The Corporation explained that an employee attempted to pick up too many drums with the forklift, resulting in spillage from several of the drums. Another spill of considerable volume occurred south of the incinerator and apparently originated from a tank trailer parked at that location. The Corporation would not comment as to how the spill occurred or what the material was. It has been covered with an absorbent material but is not cleaned up.

An inspection was made by James Hunt and George Halloran on August 17, 1978. A green liquid waste had been spilled southwest of the incinerator and no attempt had been made to contain or remove the waste. As experienced on August 10, 1978, scrubber water was "raining" from the stack. Bags of dry sodium hydroxide were broken open and spilled onto the soil near the maintenance building. Drums of scrubber water which had been recently removed from the incinerator scrubber system were being stored without lids in a haphazard manner.

An inspection was made by James King and James Hunt of the State Board of Health and Charles Grigalauski of the U.S. EPA on August 24, 1978. A pool of an unidentified oily waste was observed at the outlet of one of the bulk storage tanks. The Corporation indicated that the spill had occurred while repairing the tank. No attempts had been made to clean up the waste.

On September 13, 1978, George Halloran made an inspection at Seymour Recycling Corporation. He observed numerous leaks in the scrubber system and advised the Corporation to shut down the incinerator until repairs co[illegible]o be made. The Corporation assured Mr. Halloran that this problem would be corrected.

An inspection made by Mr. Hunt on September 20, 1978, revealed that several drums were not covered with lids including material received since June 30, 1978.

On September 27, 1978, at 9:30 p.m., James Hunt made an inspection at Seymour Recycling Corporation. The incinerator was operating and the scrubber water was "raining" from the stack, forming numerous puddles around the incinerator. Mr. Kovacs acknowledged the scrubber was not functioning properly. A spill of black waste of considerable volume was noted in a ditch south of the office. Mr. Kovacs indicated that a drum of oil had been spilled, however, another employee, Joe Pittman, indicated that more than a drum was involved. Subsequent discussions with Ron Sorensen, Plant Manager, revealed that the spill occurred on September 25, 1978.

On September 27, 1978, a follow-up inspection was made by James Hunt. Joe Pittman advised that the incinerator had been shut down at 7:00 a.m., that morning. Photographs of the pooled scrubber water were taken. The spill which had been observed on September 26, 1978, had not been cleaned up. The black waste at the north end of the ditch was at least four inches deep and it was estimated that several hundred gallons were involved. Ron Sorensen subsequently advised that drums of chromic acid had been spilled and oils from Kendall Company had been poured on the spill to reduce the fumes. Mr. Kovacs indicated that the Corporation needed to repair a pump before the waste could be removed. A sample of the waste was collected for analysis and it has been determined that the waste contained chromic acid and several chlorinated and non-chlorinated hydrocarbons. The Corporation has subsequently taken measures to clean up the spill; however, the contaminated soil is currently piled in the open at the south end of the ditch.

On September 29, 1978, Seymour Recycling reported to David Shipe of our Emergency Response Section that the Corporation had spilled 200 to 300 gallons of triethanolamine into a ditch east of the office and that measures were being taken to clean it up. A followup inspecton by Mr. Shipe on October 6, 1978, confirmed that most of the material had been removed. The Corporation indicated that the spill was caused by over-filling a tank.

On October 17, 1978, James Hunt and Andrew Sunderland visited the Seymour Recycling Corporation. As experienced several times in the past, scrubber water was "raining" from the stack.

An inspection was made at Seymour Recycling on November 1, 1978, by George Halloran and James Hunt. Scrubber water was "raining" from the stack and numerous leaks were observed in the scrubber system. During the inspection a sump failed and scrubber water was discharged to an area northwest of the incinerator. Several drums labeled scrubber water were haphazardly stacked northwest of the incinerator. One of the drums was sampled and the Corporation confirmed that the contents was a flammable waste rather than scrubber water. There was evidence that the contents of the drums had leaked on to the ground.

An inspection was made at Seymour Recycling by Andrew Sunderland and James Hunt on November 17, 1978, in response to a fire which occurred at the site on November 15, 1978. Several spills were noted during the inspection and samples were collected for analysis. One spill involved a drum of what appeared to contain ink. Apparently, the drum had been crushed while it still contained a considerable amount of the waste. Two other spills of significant volume were observed. Mr. Kovacs couldn't identify the materials. Samples of the spilled wastes are being analyzed.

An inspection by James Hunt and Charles Grigalauski was made at the Seymour Recycling Corporation on November 8, 1978. A drum of what appeared to be ink was spilled southwest of the incinerator. After it was brought to the Corporation's attention, he instructed one of his employees to remove it.

As is evident, numerous spills have occurred at Seymour Recycling Corporation since June 30, 1978. Most of the material could not be identified by the Corporation and identification of an "unknown" material by our laboratory is difficult. Additional analytical equipment is on order and we anticipate making more positive identifications of the material on hand in the near future. Not only has the Corporation failed to clean up most of the spills, it also appears evident that adequate measures have not been taken to prevent spills from occurring. Several spills have been observed as the result of puncturing a drum with a forklift. A study of the potential for groundwater contamination was undertaken by the agency's Hydrogeologist, James King. He concluded that although soil borings and piezometers are needed for a conclusive determination, the potential for contamination of the groundwater underlying Seymour Recycling exists. A copy of Mr. King's report is enclosed.

In summary it is our opinion that the progress Seymour Recycling Corporation has made in cleaning up the site since June 30, 1978, has been minimal. Based on the monthly reports submitted by the Corporation for the period from July 1, 1978, to October 31, 1978, 5,319 drums were removed from the site and 2,450 drums of waste were brought on-site, resulting in a net reduction of 2,869 drums. However, this figure is somewhat deceptive in that 4,746 of the 5,319 drums were emptied into bulk storage tanks. We do not know how much of the transferred waste has actually been destroyed or reclaimed. It appears that the most progress has been in the areas which would require minimal monetary expenditures.

This agency has received several complaints from residents in the area relative to operation of the incinerator at Seymour Recycling. We have documented that on several occasions the Coporation has incinerated waste prior to performing a complete analysis or that the waste fuel was not within the specification set forth by the Air Pollution Control permit. As indicated previously, "rainfall" from the incinerator has resulted in contamination of the surrounding area and improper handling of drums of scrubber water poses an additional threat. Of further concern is the fact that the incinerator's scrubber system is not equipped with an adequate scrubber water treatment system, thus resulting in spillage of the wastewater and the generation of a wastewater which is not suitable for disposal in Indiana without further treatment. It is our suggestion that the following additional conditions and limitations be added to the Agreed Order of June 30, 1978:

1. That Seymour Recycling Corporation be required to submit a detailed analysis of all waste streams for which prior notification has been given pursuant to Item 2 of the Order. Furthermore, all future verbal requests should be accompanied by an analysis from the generator and a copy of the generator's analysis should be submitted with the written confirmation of notification.

2. That the Corporation be required to pack all laboratory chemicals in drums for disposal and complete the disposal within thirty (30) days. Prior approval from the plaintiff shall be secured if the waste is not shipped to the previously-approved disposal site.

3. That the Corporation be required to comply with the requirements of Item 3E of the Order relative to the storage of HCP waste. It is suggested that the Corporation be allowed thirty (30) days to transfer the HCP waste from the existing drums to plastic-lined DOT approved, reconditioned drums which are properly labeled while awaiting disposal.

4. That the court determine the correct interpretation of the status of the EPC landfill application. Should the court confirm our interpretation we suggest that the procedures set forth in our letters of November 6, 9, and 16, 1978, be incorporated as part of the Order.

5. That the Corporation be required to segregate and transfer the acid and caustic waste to appropriate bulk containers within sixty (60) days. Furthermore, the Corporation should be required to submit complete plans and specifications for an acid/base neutralization system to the plaintiff or dispose of the material offsite within thirty (30) days. Approval must be secured from the plantiff for disposal within Indiana and notification at least three-days prior to shipment must be provided for out-of-state disposal.

6. That the Corporation be required to install a valve on the cyanide storage tank within fifteen (15) days.

7. That the Corporation advise the plantiff as to the disposition of the unauthorized waste from Essex Group and Borg Warner and if destruction has not been accomplished, the waste must be removed from the site and shipped to an approved disposal site. Approval must be secured from the plaintiff for disposal within Indiana and notification at least three days prior to shipment must be provided for outof-state disposal.

8. That the Corporation conduct soil borings and install piezometers as recommended in Mr. King's report and under the direct supervision of the plaintiff within 120 days.

9. That within 30 days of completion of Item 8, the Corporation shall submit complete plans to the plaintiff for a ground water monitoring system and implement within 30 days of approval. The well locations, testing frequencies and testing parameters shall be determined by the plaintiff after review of the measures taken in Item 8.

10. That all drums be equipped with covers to prevent contact with the environment.

11. That the Corporation discontinue operation of the incinerator until such time as the following requirements have been met:

    a. That all facilities and instrumentation required by the Corporation's current Air Pollution Control Permit, and any modification thereof, be installed and operational.

    b. That the Corporation submit detailed information to the plaintiff outlining the analytical procedures and the method of sampling and blending which will be followed to assure adequate quality control.

    c. That applications and complete plans and specifications be submitted to the plaintiff for a permit for construction and operation of a scrubber liquid treatment system to be used in conjunction with the incinerator. The permits shall be issued and all facilities shall be operational prior to resuming operation of the incinerator.

    d. That approval for disposal of the ash,scrubber liquor sludge and filtered fuel solids be secured from the plaintiff prior to operating the incinerator. The accumulated waste shall be disposed of within 90 days of generation and it shall be stored in sealed, adequately labeled and dated containers until disposal is accomplished.

    e. That a stack test be performed by the Corporation prior to start-up of the incinerator. The test shall include all parameters for which limitations are set forth in the Corporation's Air Pollution Control Permit and samples shall be split with the plaintiff.

f. That the incinerator scrubber and scrubber water treatment system be operated in accordance with applicable permits, laws and Regulations administered by the Environmental Management Board at all times.

12. That Seymour Recycling Corporation submit to the plaintiff a complete inventory of all waste in bulk storage, including the tank identification number, quantity and a complete analysis for the material in each tank. The inventory shall be accompanied by a plot plan identifying each tank on the property.

Enclosed are copies of letters and reports which relate to the items covered in this report. If you have any further questions relative to this matter please contact James Hunt at AC 317/633-0762.

JMHunt/rm

b-3

17 ext ✓

STATE BOARD OF HEALTH

INDIANAPOLIS

OFFICE MEMORANDUM

DATE: January 9, 1979

TO: Ralph C. Pickard

THRU: David Lamm
Chester Canham
Oral Hert

FROM: Jim Hunt

SUBJECT: Seymour Recycling Corporation
Seymour, Indiana

At the request of Senator Lugar's office, an interagency inspection was conducted at Seymour Recycling Corporation, Seymour, Indiana, on December 20, 1978. The following people were present during all or a portion of the inspection:

Bill Goodwin, State Fire Marshal
Charles Grigalauski, Region V, EPA
Steve Zlatos, Attorney General's Office
Andy Sunderland, Division of Air Pollution Control
Marv Eggleston, Solid Waste Management Section
Jim Hunt, Division of Water Pollution Control
Lane Ralph, Senator Lugar's Office

Mr. Goodwin left prior to the tour but commented that the State Fire Marshal's office would be inspecting the site in approximately 30 days to evaluate the Corporation's compliance with his most recent recommendations.

Senator Lugar had requested the inspection as a result of the recent publicity and complaints concerning Seymour Recycling Corporation and the fact that this operation was one of five in Indiana identified as potentially hazardous by Region V, EPA. Mr. Ralph had also arranged to meet with residents in the vicinity of the operation after the inspection.

The inspection was somewhat typical, involving a tour of the facility with Ron Sorensen, plant manager, and Joe Pittman, foreman. Particular attention was focused on the following:

1. The drums were badly deteriorated as observed in the past and there was evidence of numerous leaks and spills. It was pointed out that certain conditions had improved since April. Access roads in the drum storage area have been improved, a portion of the drums of acid waste have been segregated and areas that were formerly covered with drums are now bare.

2. Although much of the waste classified as laboratory chemicals has been placed in drums and is awaiting shipment, there is a considerable quantity of haphazardly stored lab chemicals on-site.

3. The "HCP" stored in bulk and drums was inspected. A marked improvement in the storage of "HCP" was noted in that all drums contained tightly-fitting lids and the waste in the punctured drum had been repackaged. There is still concern that the corrosive characteristics of the waste will cause accelerated deterioration of the drums while awaiting shipment to a disposal site.

4. The incinerator was not operating although Ron Sorensen indicated that start-up could probably be accomplished by the first of the following week.

5. The "in-coming material" storage area was inspected in more detail than in times past. Although somewhat segregated and organized, the in-coming drums of waste were stored in several locations and were not clearly segregated from older drums. Mr. Sorenson was advised that the manner of storage was not in compliance with the Agreed Order and was requested to accomplish better segregation and identification.

Subsequent to the inspection we attended a meeting with local residents at the Jackson County Agricultural Extension Office in Brownstown. Present were Charles Yeager, County Extension Agent, two employees of H. O. Canfield and five residents who live in close proximity to Seymour Recycling. Although the local people were quite calm and rational they were very concerned about the current and potential problems created by Seymour Recyling Corporation. The following comments were made by the residents:

1. Emissions from the incinerator have been worse this last summer than previously. Black smoke downwind from the incinerator and irritation of the eyes, nose and lungs were common. Also, fall-out of material on cars parked approximately one-half mile to the northeast of the facility (H. O. Canfield) has been experienced on several occasions. One of the residents showed us photographs of the black smoke reportedly being emitted by the incinerator.

2. Activities at Seymour Recycling, both in terms of incineration and truck traffic, increase at night and on weekends. Problems experienced as the result of the operation of the incinerator usually occur on the weekends or nights or early in the mornings. This leads the residents to believe that unauthorized activities may be occurring. They suggested that the State Board of Health have an inspector at the site during operating hours in a manner similar to the meat inspection program. It was explained that we did not have the personnel to have an inspector at the site at all times and although we do make frequent inspections we could not assure the residents that unauthorized activities would not occur. It was pointed out that the Court Order placed stringent requirements upon the Corporation.

3. The residents are very concerned about the contamination of their wells, and the recent spills which have occurred at Seymour Recycling have increased these concerns. It was indicated that we, likewise, were concerned over the potential for groundwater contamination and the Corporation is being requested to install a groundwater monitoring system. Recent analysis of several residential and commercial wells surrounding the site have not shown evidence of significant contamination.

The residents have expressed considerable distrust in the intent and capabilities of Seymour Recycling Corporation and it may be difficult to alleviate their concerns. However, I believe they may have some legitimate concerns with regard to emissions from the incinerator. Although the staff has not been able to experience the severe conditions to which the residents make reference, we have on several occasions documented that the incinerator was being operated improperly. Analysis of several samples by the Industrial Hygiene Division laboratory has revealed that the waste being burned was not within the specifications required by the Corporation's Air Pollution Control Permit. It appears that a portion of these violations may have resulted from incorrect analytical techniques; however, it is apparent that much of the problem is caused by inadequate blending facilities. Another problem area is the "rainfalling" of scrubber water from the incinerator stack. As noted in our December 15, 1978, memo to the Attorney General's Office, the staff has documented numerous instances of this problem occurring. In addition, leaks in the scrubber water recirculation system have been common.

In the past, and possibly currently, the incinerator has not been equipped with sufficient instrumentation to assure proper operation. The only instrument operative on the incinerator has been a temperature gauge. The Corporation has had no practical way of determining the fuel flow, residence time, or excess oxygen. The scrubber water has been monitored with litmus paper and on at least one occasion the staff had documented that this method has not been reliable. The Provisional Permit issued by the Air Pollution Control Board on November 17, 1978, requires additional instrumentation on the incinerator and is more specific on the equipment required for blending the waste prior to burning. The permit specifies the use of a "Sly" impingement scrubber; however, a fire occurred at the site on November 15, 1978, and that scrubber was totally destroyed. The Corporation has since made an application to replace the "Sly" scrubber with a "spray tower" which the Corporation says is of equal or greater efficiency. However, the literature indicates that a "spray tower" is less efficient than an impingement-type scrubber, particularly for the smaller particle sizes which would be expected. The staff of the Air Pollution Control Division has requested the Corporation to submit more detailed plans and specificiations on the proposed spray tower and to have the plans certified by a registered engineer. It is understood that the Corporation has not met this requirement; however, the "spray tower" has been fabricated and installed and, according to the residents, extensive burning of waste has occurred in the interim period.

As previously indicated, positive steps have not been taken to require the Corporation to operate the incinerator within the specifications set forth by the Air Pollution Control Permit. In light of the attention which has been, and still is, focused on this operation, I believe this agency will be very vulnerable to criticism unless "all the bases are covered." It is strongly recommended that the following action be taken with regard to operation of the incinerator at Seymour Recycling Corporation:

1. That Seymour Recycling Corporation be required to comply with Section 2(a)4 of Regulation APC 19 with regard to certification of plans by a professional engineer registered in the State of Indiana and that further use of the incinerator does not occur until this is accomplished and the permit modification has been granted.

2. That all instrumentation and adequate blending facilities be installed and operational prior to further incineration.

3. The Provisional Air Pollution Control Permit expires on March 1, 1979. It is recommended that the Corporation be required to secure SPC-15 Construction and Operation Permits for the scrubber water treatment system and install and make the facility operational prior to issuance of a new APC permit.

4. That the Division of Industrial Hygiene and Radiological Health be requested to conduct ambient air-monitoring studies surrounding the site to attempt to determine the effect the incinerator emissions are having on surrounding areas.

5. That assistance be requested from Purdue University to evaluate the effect the incinerator emissions are having on plant growth. Soil and plant tissue analyses will probably be required.

Subsequent to the meeting, Lane Ralph verbally advised that he would make the following recommendation to Senator Lugar with regard to facilities such as Seymour Recycling:

1. Encourage the State Fire Marshal, local fire departments and other affiliated agencies to develop a fire contingency plan.

2. Promote the establishment of training programs to educate managers and hourly workers of waste disposal facilities on how to handle hazardous wastes.

3. That Senator Lugar's office periodically (every six months) contact this office to determine the progress which is being made to clean up the sites.

cc: Ed Stresino
Dr. Peterson
George Halloran

STATE BOARD OF HEALTH

INDIANAPOLIS

OFFICE MEMORANDUM

DATE: May 7, 1979

TO: Seymour Recycling Corporation Files
Seymour, Indiana

THRU:

FROM: Jim Hunt JH

SUBJECT: Inspections of April 3 and April 4, 1979

On April 3, 1979, Dick Zeiler of the Air Pollution Control Division and Jim Hunt of the Division of Water Pollution Control made a trip to the Freeman Field Industrial Park located one mile southwest of Seymour. The purpose of the visit was to determine the best location to install a high-volume air sampler to monitor particulate emissions from Seymour Recycling Corporation.

It was decided that the best location was on top of the H. O. Canfield Building which was approximately one quarter mile northeast of Seymour Recycling. The site is down wind from Seymour Recycling Corporation and a power supply is readily available. The management at Canfield was very cooperative, however, it was indicated that authorization to install the sampler would have to be secured from corporate headquarters and the airport manager, Mr. Donald Heiwig. On the following day, Canfield advised Jim Hunt that both parties had been contacted and that we could proceed with installation of the sampler.

While Dick and I were at Canfield, it was brought to our attention that Seymour Recycling Corporation's vacuum truck was at the abandoned sewage treatment plant, located on "G" Avenue approximately one quarter mile east of Canfield. When we arrived at the plant, Darin Green, Chemist for Seymour Recycling Corporation, and another employee were pumping a very odorous substance from the sanitary sewer lift station. Darin indicated that the substance was oil and that it had entered the sewer system as a result of a spill at Seymour Recycling. We then contacted John Hall at Seymour Recycling. John indicated that he was not aware of any spills at the plant, and that the material may not have come from Seymour Recycling.

While Seymour Recycling Corporation personnel were at lunch, Dick, George Halloran, and I made an inspection of the facility. The following conditions were noted:

1. A small pump was located at the south end of the property at the entrance to one of the bunkers formerly used to store lab chemicals. Attached to the pump was a garden hose which led to a ditch to the east of the pump site. Prior to my arrival, George had observed that a dark yellow substance was being pumped to the ditch. A sample of the remaining waste was collected and a subsequent analysis revealed that the waste

contained fairly high concentrations of cadmium and chromium. I mentioned the incident to John Hall during a phone conversation on April 5, and he indicated that the waste had been checked by the Chemist and that it was being pumped to the ditch for subsequent discharge to the sanitary sewer.

2. We inspected the site of the spill noted during my inspection on March 8, 1979. An absorbent material had been placed on a portion of the waste but there was no indication that any of it had been cleaned up. Some of the drums had been uprighted but several were still haphazardly situated in the ditch. A sample of the waste was collected.

3. Waste was spilled on the soil along the east side of the driveway east of the offices. A sample was collected for analaysis. John Hall was asked about the spill material on April 5, but he could not give any information as to what the waste was or how it was spilled.

4. Transenvironmental's trailer No. 902 was on-site. It did not have the required lettering nor did it have a license plate. The trailer was loaded with drums.

At approximately 7:00 p.m., E.S.T., on April 3, 1979, I received a phone call from Tony Schrink, an employee of H.O. Canfield. Tony indicated he had been contacted by Molly Rieckers, who lives approximately one and one-half miles north of Seymour Recycling. Tony stated that Mrs. Rieckers had to evacuate her home because of strong chemical fumes which had entered the house through the sewer system. He collected a sample of the sanitary waste from a manhole located two homes to the west on the Mike Isaacs property. I told Tony to refrigerate the sample and we would pick it up on the following day. He had also contacted Bob Gatte of the Jackson County Health Department who was going to make an immediate investigation. At approximately 9:00 p.m., E.S.T., on the same evening, I received a call from Bob Gatte. Bob was at the Rieckers home an indicated that the fumes had dissipated considerably, however, the Rieckers family was not going to return to the house until the next day. Mr. Gatte was going to collect another sample from the sanitary sewer.

On April 4, 1979, Bob Gatte and Jim Hunt continued the investigation of the spill of waste into the sanitary sewer. Mrs. Rieckers was contacted at her home at 1505 New Ford Road, in Seymour (522-4276). Mrs. Rieckers indicated she first noted the odors outside of her house on Monday evening and by Tuesday morning it was noticeable inside. At first she thought it might have been a gas leak and called the gas company. The gas company employee investigated the complaint and indicated that the fumes were apparently originating from the sanitary sewer system. He indicated that the concentrations of vapors in the crawl space beneath the house were not explosive. At approximately 6:00 p.m., E.S.T., on April 3, Mrs. Reickers contacted the Seymour sewer department (522-7229) and was told that someone would investigate her complaint. Later, Mayor Ernest contacted her and indicated that there may be a leak in the sewer conncection between her home and that he would have representatives from Seymour Recycling Corporation discuss the incident with her.

Mrs. Reickers indicated she experienced headaches and "watering" of the eyes while being exposed to the fumes. Mr. Walter Halfman, who lives one house east, also experienced similar problems. The custodian of the Seymour High School also complained of the fumes.

We then visited the Seymour Sewage Treatment Plant. In Gary Hukill's absence, we contacted Randy Smith. Randy indicated he first noticed the fumes at the treatment plant on the morning of April 2. Although the discharge caused some discomfort to the employees ("watering" of the eyes) he stated it didn't appear to affect the operation of the plant. The distinctive odor was still noticeable at the plant. He recalled that Seymour Recycling had discharged an oily substance to the sewer approximately two months ago and that a discharge of styrene into the sanitary sewer in the fall of 1978 caused considerable operational problems. I contacted Gary Hukill at his home with regard to the arrangements the City had made with Seymour Recycling for accepting waste into the sanitary sewer system. He indicated Seymour Recycling did not advise the treatment plant prior to discharge of wastewater to the plant. I again advised that the City of Seymour would be held responsible for violations of its NPDES permit resulting from discharges by Seymour Recycling. Gary assured me he would meet with Seymour Recycling to develop a more controlled situation. On April 5, 1979, he called to advise of the results of the meeting. The following procedures are being implemented:

1. All manholes are being equipped with locks and the sewage treatment plant will keep the keys.

2. Seymour Recycling will provide the City with an analysis and a sample of the waste prior to discharge to the sewer.

3. The City will set up an automatic sampler in the sewer line prior to authorizing the discharge and the sampler will be operated until the discharge has been completed.

Gary expressed concern that neither the City nor Seymour Recycling had the analytical equipment (GS-MS) to analysis for unknown organics. I indicated that our lab might be able to provide some assistance in this area if he held a sample for us. With regard to locking the manholes, I pointed out that at least one building drain and the grated sewer into which the cooling water is discharged is still accessible for unauthorized discharges. Also, as pointed out by Bob Gatte, during rainy periods contaminated rainwater may rise to a high enough elevation to enter the manholes.

During a phone conversation with Jim Hunt on April 6, 1979, Bob Gatte expressed concern over the accumulation of rainwater on the Seymour Recycling property. The Corporation's intention was to prevent discharges to the stream by retaining it on the property and pumping it to the sanitary sewer. This approach has caused the following problems:

1. The Corporation has not eliminated discharges during high rainfall periods. This was documented by Bob Gatte on April 2, 1979 The discharge was observed and samples were collected.

2. As pointed out earlier, there is the potential for uncontrolled discharges to the sanitary sewer system.

3. The retaining of the water on-site will increase the amount of vertical movement of contaminants into the ground water.

4. The resulting muddy conditions hampers the corporation in moving drums of waste and accelerates the deterioration of the drums.

Bob has suggested that the Corporation install a holding basin into which the rainwater could be pumped. This approach may be feasible, however, the basin would need to be sealed well (with what?) and with the present drum inventory, there is no cleared area on site.

cc: George Halloran
Jim Hunt

June 5, 1979

Seymour Recycling Corporation Files
Seymour, Indiana

Jim Hunt
Water Pollution Control Division

Spill Incidents

Following is a description of spills which have been observed at Seymour Recycling during the period from November 18, 1978, to the present date.

Inspection of March 8, 1979, by Jim Hunt.

Several drums of waste from McDonnell Douglas, St. Louis, Missouri, had been overturned into a ditch west of the "tall building" leaking some of the contents onto the soil. Although the drums were not identified, Ron Sorensen indicated that he and Jon Hall had helped unload the drums a short time ago. He assured me he would have the drums uprighted and clean up the waste by the end of the day. Samples and photographs were collected.

A second spill of an unidentified waste was observed east of the drive and absorbent material had been placed on the waste but it had not been cleaned up.

A drum of waste had overturned at the south end of the property. Samples and photographs were taken.

A light yellow liquid was collected from the hypalon-lined ditch where previous spill of chromic acid had occurred. A sample was collected to evaluate how thoroughly the company had cleaned up the waste.

Spill Report of April 16, 1979

Jon Hall reported a spill of 200 to 300 gallons of "oil" from tank G-3. The spill was reportedly contained and cleaned up. No discharge to the sanitary sewer or stream occurred.

Inspection of April 3, 1979 by Dick Zeiler, George Halloran and Jim Hunt

We observed that Seymour Recycling was pumping a "solvent" waste from the sewage disposal plant lift station east of Seymour Recycling. Darin Green indicated that a spill had occurred, however, Jon Hall denied the occurrence. A black oily material was observed west of the yellow building. Analysis of the spilled waste and the waste in the lift station revealed that it was the same material.

George Halloran observed the company pumping a yellow waste from the entrance to one of the bunkers to a ditch east of the bunker. Analysis showed that it contained fairly high concentrations of cadmium, chromium, and other heavy metals.

The site of the McDonnell Douglas spill was reinspected. Some of the drums had been uprighted. An absorbent material had been placed on the spill but it had not been cleaned up.

Inspection of April 9, 1979 by Jim Hunt and Bob Gatte

Drums of McDonnell Douglas waste were still improperly stored and the waste was not cleaned up.

Inspection of May 7, 1979, by Jim Hunt and John Applegate

The "hex" tank had been leaking. Jon Hall was requested to clean up the waste and prevent further leakage.

A clear oily substance was observed discharging from a tile into the field manhole east of Seymour Recycling. Samples were collected for analysis. Although it is believed that the material was coming from Seymour Recycling we could find no source on-site.

A black oily substance was observed in the catch basin east of the entrance drive and in the ditch west of the drive. A substance of the same odor and appearance was observed in the ditch east of the yellow building. Samples were collected.

Inspection of May 21, 1979 by Jim Hunt and Bob Gatte

A spill was noted along the driveway at the south end of the property. It was obvious that the drum had been crushed by a vehicle while turning a corner.

The "hex" tank was reinspected. Jon Hall had placed plastic sheeting over the end of the tank and the liquid was accumulating between the plastic and the tank. He was requested to seal the tank more thoroughly.

While making an inspection at Seymour Recycling on the evening of the same day, Jim Hunt observed that the vacuum tank wagon which the company uses to transfer waste from drums to bulk tanks had malfunctioned resulting in a discharge of what smelled like a chlorinated solvent onto the soil.

cgpM/28 6/4/79

Seymour 5222 June 19, 1979

5222-1 Sample from Lift Station

5222-3 Waste spilled west of drum crusher. - Reddish Brown

5222-4 – S. end of ditch along Pink Palace Road
3
5222-5 S.W. of Pink Palace along same road.

5222-6 S. end of hypalon lined ditch

5222-7 White powder along road south of laboratory

5222-8 Brown liquid alond road south of lab

5222-9 Black waste west of lab in ditch

5222-10 Pit south of concrete slab west of Tall Bldg,

5222-12 Pooled waste south of "6" series tank
Priority on #12 "cresol" ?
5222-13 - Solvent waste along dump station
road

Total - 11 samples in pint jars (E.S.)

Metal Analysis of Waste Materials from Seymour Recycling, Seymour 5222

Two waste material samples were digested each in approximately 25 ml concentrated nitric acid. The first digest materials were evaporated close to dryness and then 25 ml concentrated nitric acid was added to each sample. The same procedure was followed with the evaporation of the sample close to dryness. This process was repeated three to four times. The final solutions were prepared by dissolving the wet digest in approximately 10 ml concentrated nitric acid and diluting to 100 ml with deionized, distilled water. These solutions were analyzed for cadmium, chromium, lead, and nickel using an IL 951 atomic absorption spectrophotometer.

Data + Results:

Sample Number	Int. Volume	Final Volume
5222-4	100 ml	100 ml
5222-6	100 ml	100 ml

Cadmium, Cd - 228.8 mμ   Background Correction   Air-Acetylene Flame
3.0 sec, integration time   5 runs

Cadmium Standard Concentration	Absorbance	Curve Program
Blank	———	———
0.200 µg Cd/ml	0.058	0.200 µg Cd/ml
0.400 µg Cd/ml	0.112	0.404 µg Cd/ml
0.600 µg Cd/ml	0.156	0.591 µg Cd/ml
0.800 µg Cd/ml	0.204	0.808 µg Cd/ml
1.000 µg Cd/ml	0.243	0.998 µg Cd/ml

Sample Number	Concentration
5222-4	0.19 µg Cd/ml
5222-6	0.06 µg Cd/ml
0.600 µg Cd/ml	0.606 ± 0.007 RSD 1.13%

Metal Analysis of Waste Materials from [illegible] Recycling Lagoon 5222-2
Chromium, Cr - 357.9 mμ Nitrous Oxide - Acetylene Flame
3.0 sec integration time 5 runs

Chromium Standard Concentration	Absorbance	Curve Program
Blank	———	———
1.00 ug Cr/ml	0.053	1.00 ug Cr/ml
2.00 ug Cr/ml	0.102	2.00 ug Cr/ml
3.00 ug Cr/ml	0.149	3.00 ug Cr/ml
5.00 ug Cr/ml	0.241	5.00 ug Cr/ml

Sample Number	Concentration
5222-6 1X	0.52 ug Cr/ml
3.00 ug Cr/ml	2.92 ug Cr/ml ± 0.05 RSD 1.68%
3.00 ug Cr/ml	2.89 ug Cr/ml ± 0.02 RSD 0.66%

Chromium Standard Concentration	Absorbance	Curve Program
Blank	———	———
1.00 ug Cr/ml	0.048	1.01 ug Cr/ml
2.00 ug Cr/ml	0.093	1.99 ug Cr/ml
3.00 ug Cr/ml	0.138	3.01 ug Cr/ml
5.00 ug Cr/ml	0.225	5.00 ug Cr/ml

Sample Number	Concentration
5222-4 2X	7.86 ug Cr/ml
3.00 ug Cr/ml	3.01 ± 0.02 RSD 0.67%

Metal Analysis of Waste Materials from Seymour Recycling, Seymour 5222

Lead, Pb - 283.3 $m\mu$ Background Correction Air-Acetylene Flame
3.0 sec. integration time 5 runs

Lead Standard Concentration	Absorbance	Curve Program
1.00 ug Pb/ml	0.028	1.01 ug Pb/ml
2.50 ug Pb/ml	0.067	2.49 ug Pb/ml
5.00 ug Pb/ml	0.129	5.00 ug Pb/ml
10.00 ug Pb/ml	0.246	10.00 ug Pb/ml
Blank	—	—

Sample Number	Concentration	Oil sample
5222-4	< 0.2 ug Pb/ml	5222 ~~5~~ 20X in MIBK < 2 ug Pb/ml
5222-6	3.2 ug Pb/ml	
5.00 ug Pb/ml	5.04 ± 0.02 RSD 0.43%	
5.00 ug Pb/ml	4.99 ± 0.01 RSD 0.26%	
5.00 ug Pb/ml	4.99 ± 0.03 RSD 0.62%	

Nickel, Ni - 232.0 $m\mu$ Background Correction Air-Acetylene Flame
3.0 sec. integration time 5 runs

Nickel Standard Concentration	Absorbance	Curve Program
Blank	—	—
0.250 ug Ni/ml	0.026	0.260 ug Ni/ml
0.500 ug Ni/ml	0.048	0.491 ug Ni/ml
1.000 ug Ni/ml	0.092	1.002 ug Ni/ml
2.500 ug Ni/ml	0.210	2.500 ug Ni/ml

Sample Number	Concentration	
5222-4	0.70 ug Ni/ml	Lee Morrow
5222-6	0.13 ug Ni/ml	August 30, 1979
1.00 ug Ni/ml	1.001 ± 0.015 RSD 1.49%	Timothy C Cory
1.00 ug Ni/ml	1.004 ± 0.013 RSD 1.34%	August 31, 1979
[illegible]	[illegible]	

WATER SAMPLE IDENTIFICATION SHEET

Sample site OLD STP Lift station
Below SRC - Seymour

Station Number 1

Sample Date 6 (Mo 11-12) 15 (Day 13-14) 79 (Yr 15-16) [✓ AM] PM

Supervisor J m Hunt

Collector(s) J m H

Delivered to lab 6 (Mo) 19 (Day) 79 (Yr) [✓ AM] PM

By J m H

	Kind	Lot No	Amount
Preservatives Added	NONE		

Sample Chlorinated ____ Not Chlorinated ✓

	Field	Lab
No. of 1 Liter Plastic Bottles		
No. of 2 Liter Plastic Bottles		
No. of Bacteriological Bottles		
No. of Glass Jars or Bottles	1	
Total	1	

Standard Procedure Followed All Some None N.A.

NPDES Number ____ (1-7) Outfall ____ (8-10)

3 (17)
1 NPDES
2 SPC-15
3 WQ Study
4 Pollution complaint
6 Fish kill investigation

3 (18)
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 State operation
7 Other

1 (19) Sample Type
1 Grab
2 24-hour comp
3 8-hour comp
4 24-hour flow comp
5 8-hour flow comp

____ (20) Sample interval

0 (21)
0 - at outfall
1 - above outfall
2 - below outfall

____ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No 5222-1 Date 06 (Mo) 19 (Day) 79 (Yr) AM PM
Rec'd by D. Peterson
Temp of samples when received RT

Comments

CODE	PARAMETERS	UNIT		LAB DATA
26-32 00410	Alkalinity Total as CaCO3	mg/l		34-41
00610	Ammonia-N	mg/l		
01002	Arsenic	ug/l		
00310	BOD5	mg/l		
01027	Cadmium	ug/l		
00940	Chlorides	mg/l		
01032	Chromium Hex	ug/l		
01034	Chromium Tot	ug/l		
00335	COD	mg/l		
01042	Copper	ug/l		
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron	ug/l		
01051	Lead	ug/l		
01055	Manganese	ug/l		
71900	Mercury	ug/l		
01067	Nickel	ug/l		
00630	NO_2+NO_3-N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH	S.U.		
32730	Phenol	ug/l		
00665	Phosphorus-P	mg/l		
00530	Solids, Susp	mg/l		
00500	Solids, Total	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	ug/l		
31616	Fecal coliform	100 ml		
	Solvents		✓	

I H.

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling-Seymour

Waste spilled W. of the drum crusher

Reddish brown, strong solvent odor

Station Number 3

Sample Date 6 (Mo 11-12) 15 (Day 13-14) 79 (Yr 15-16) AM [✓ PM]

Supervisor J. M. Hunt

Collector(s) J. M. Hunt

Delivered to lab 6 (M.) 19 (Day) 79 (Yr) [✓ AM] PM

By J. M. Hunt

	Kind	Lot No	Amount
Preservatives Added NONE			

Sample Chlorinated ______ Not Chlorinated ✓

	Field	Lab
No. of 1 Liter Plastic Bottles		
No. of 2 Liter Plastic Bottles		
No. of Bacteriological Bottles		
No. of Glass Jars or Bottles	1	
Total	1	

Standard Procedure Followed All some None N.A.

NPDES Number ______ (1-7) Outfall ______ (8-10)

3 (17)
1 NPDES
2 SPC-15
3 WQ Study
4 Pollution complaint
5 Fish kill investigation

1 (18)
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 State operation
7 Other

1 (19) Sample Type
1 Grab
2 24-hour comp
3 8-hour comp
4 24-hour flow comp
5 8-hour flow comp

______ (20) Sample interval

0 (21)
0 - at outfall
1 - above outfall
2 - below outfall

______ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No 5222-3 Date 06 (Mo) 19 (Day) 79 (Yr) AM PM

Rec'd by Dr Peterson

Temp of sample when received RT

Comments

CODE	PARAMETER	UNIT		LAB DATA
28-32 00410	Alkalinity Total CaCO3	mg/l		34-41
00610	Ammonia-N	mg/l		
01002	Arsenic	ug/l		
00310	BOD5	mg/l		
01027	Cadmium	ug/l		
00940	Chlorides	mg/l		
01032	Chromium Hex	ug/l		
01034	Chromium Tot	ug/l		
00335	COD	mg/l		
01042	Copper	ug/l		
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron	ug/l		
01051	Lead	ug/l		
01055	Manganese	ug/l		
71900	Mercury	ug/l		
01067	Nickel	ug/l		
00630	NO2+NO3-N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH lab	S.U.		
32730	Phenols	ug/l		
00665	Phosphorus-P	mg/l		
00530	Solids - Sus	mg/l		
00500	Solids - Tot.	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	ug/l		
31616	Fecal coliform	100 ml		
	Solvents	✓		

I H.

WATER SAMPLE IDENTIFICATION SHEET

Sample Site Seymour Recycling - Seymour
S. END of Ditch Along Pink Palace Rd.

Station Number 4

Sample Date 6 (Mo 11-12) 15 (Day 13-14) 79 (Yr 15-16) AM [✓ PM]

Supervisor J M Hunt

Collector(s) J. M. Hunt

Delivered to lab 6 (Mo) 19 (Day) 79 (Yr) [✓ AM] PM

By JmH

	Kind	Lot No.	Amount
Preservatives Added			
NONE			

Sample Chlorinated ______ Not Chlorinated ✓

	Field	Lab
No. of 1 Liter Plastic Bottles		
No. of 2 Liter Plastic Bottles		
No. of Bacteriological Bottles		
No. of Glass Jars or Bottles	1	
Total	1	

Standard Procedure Followed All Some None

NPDES Number ______ (1-7) Outfall ______ (8-10)

3 (17)
1 NPDES
2 SPC-15
3 WQ Study
4 Pollution complaint
5 Fish kill investigation

1 (18)
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 State operation
7 Other

1 (19)
Sample Type
1 Grab
2 24-hour comp
3 8-hour comp
4 24-hour flow comp
5 8-hour flow comp

______ (20) Sample Interval

0 (21)
0 - at outfall
1 - above outfall
2 - below outfall

______ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No 5222-4 Date 6 (Mo) 19 (Day) 79 (Yr) AM PM

Rec'd by N. Peterson

Temp of samples when received RT

Comments

CODE	PARAMETERS	UNIT		LAB DATA
28-32 00410	Alkalinity Total CaCO$_3$	mg/l		34-41
00610	Ammonia-N	mg/l		
01002	Arsenic	ug/l		
00310	BOD$_5$	mg/l		
01027	Cadmium		✓	0.19 µg/ml
00940	Chlorides	mg/l		
01032	Chromium-Hex	ug/l	✓	
01034	Chromium-Tot		✓	7.86 µg/ml
00335	COD	mg/l		
01042	Copper	ug/l	✓	
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron	ug/l		
01051	Lead		✓	< 0.2 µg/ml
01055	Manganese	ug/l		
71900	Mercury	ug/l		
01067	Nickel		✓	0.70 µg/ml
00630	NO$_2$-NO$_3$-N	mg/l		
00550	Oil & Grease	mg/l		
00402	pH lab	S U		
32730	Phenol	ug/l	✓	
00665	Phosphorus-P	mg/l		
00530	Solids - Susp	mg/l		
00500	Solids Total	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	ug/l	✓	
31616	Fecal coliform	[illegible]		

I H

WATER SAMPLE IDENTIFICATION SHEET

Sample Site Seymour Recycling - Seymour Ditch Along Pink Palace Rd — S.W. of Pink Palace

Station Number 5

Sample Date 6 (Mo 11-12) 15 (Day 13-14) 79 (Yr 15-16) AM [✓ PM]

Supervisor Jm Hunt

Collector(s) JMH

Delivered to lab 6 (Mo) 19 (Day) 79 (Yr) [✓ AM] PM

By JMH

	Kind	Lot No	Amount
Preservatives Added			
NONE			

Sample Chlorinated ____ Not Chlorinated ✓

	Field	Lab
No. of 1 Liter Plastic Bottles		
No. of 2 Liter Plastic Bottles		
No. of Bacteriological Bottles		
No. of Glass Jars or Bottles	1	
Total	1	

Standard Procedure Followed All Some None

NPDES Number ____ (1-7) Outfall ____ (8-10)

3 (17)
1. NPDES
2. SPC-15
3. WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18)
1. Industry
2. Semi-Public
3. Municipal
4. Federal
5. Public Water Supply
6. State operated
7. Other

1 (19) Sample Type
1. Grab
2. 24-hour comp
3. 8-hour comp
4. 24-hour flow comp
5. 8-hour flow comp

____ (20) Sample interval

0 (21)
0 - at outfall
1 - above outfall
2 - below outfall

____ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No 5222-5 Date 06 (Mo) 19 (Day) 79 (Yr) AM PM

Rec'd by D. Peterson

Temp of samples when received RT

Comments

CODE	PARAMETERS	UNIT		LAB DATA
28-32 00410	Alkalinity Total (as CaCO$_3$)	mg/l		34-41
00610	Ammonia-N	mg/l		
01002	Arsenic	ug/l		
00310	BOD$_5$	mg/l		
01027	Cadmium	ug/l	✓	
00940	Chlorides	mg/l		
01032	Chromium-Hex	ug/l	✓	
01034	Chromium-Tot	ug/l	✓	
00335	COD	mg/l		
01042	Copper	ug/l	✓	
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron	ug/l		
01051	Lead	[illegible]	✓	< 2 µg/ml in MIBK
01055	Manganese	ug/l		
71900	Mercury	ug/l		
01067	Nickel	ug/l	✓	
00630	NO$_2$-NO$_3$-N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH (lab)	S.U.	✓	
32730	Phenols	ug/l	✓	
00665	Phosphorus-P	mg/l		
00530	Solids-Susp	mg/l		
00500	Solids-Total	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	ug/l	✓	
31616	Fecal coliform	/100 ml		

I.H.

WATER SAMPLE IDENTIFICATION SHEET

Sample Site Seymour Recycling - Seymour

S. end of hypalon - Lined Ditch

Station Number 6

Sample Date 6 (Mo 11-12) 15 (Day 13-14) 79 (Yr 15-16) AM [✓ PM]

Supervisor J. M. Hunt

Collector(s) J. M. Hunt

Delivered to lab 6 (Mo) 19 (Day) 79 (Yr) [✓ AM] PM

By J M H

	Kind	Lot No	Amount
Preservatives Added			
NONE			

Sample Chlorinated ______ Not Chlorinated ✓

	Field	Lab
No. of 1 Liter Plastic Bottles		
No. of 2 Liter Plastic Bottles		
No. of Bacteriological Bottles		
No. of Glass Jars or Bottles	1	
Total	1	

Standard Procedure Followed All Some None

NPDES Number ______ (1-7) Outfall ______ (8-10)

3 (17)
1 NPDES
2 SPC-15
3 WQ Study
4 Pollution complaint
5 Fish kill investigation

1 (18)
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 State operated
7 Other

1 (19)
Sample Type
1 Grab
2 24-hour comp
3 8-hour comp
4 24-hour flow comp
5 8-hour flow comp

______ (20) Sample Interval

0 (21)
0 at outfall
1 above outfall
2 below outfall

______ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No 5222-6 Date 06 (Mo) 19 (Day) 79 (Yr) AM PM

Rec'd by Dr Peterson

Temp of samples when received RT.

Comments

CODE	PARAMETERS	UNIT		LAB DATA
28-32 00410	Alkalinity Total (as CaCO3)	mg/l		34-41
00610	Ammonia-N	mg/l		
01002	Arsenic	ug/l		
00310	BOD5	mg/l		
01027	Cadmium	ug/l	✓	0.06 ug/ml
00940	Chlorides	mg/l		
01032	Chromium-Hex	ug/l	✓	
01034	Chromium-Tot	[illegible]	✓	0.52 ug/ml
00335	COD	mg/l		
01042	Copper	ug/l		
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron	ug/l		
01051	Lead	[illegible]	✓	3.2 ug/ml
01055	Manganese	ug/l		
71900	Mercury	ug/l		
01067	Nickel	[illegible]	✓	0.13 ug/ml
00630	NO_2+NO_3-N	mg/l		
00550	Oil & Grease	mg/l		
00400	pH (lab)	S.U.		
32730	Phenols	ug/l		
00665	Phosphorus-P	mg/l		
00530	Solids - Susp	mg/l		
00500	Solids (total)	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	ug/l		
31616	Fecal coliform	/100 ml		

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling-Seymour White Powder Along Road S of Laboratory Station No. 7

Sample Date 6 (MO 11-12) 15 (DAY 13-14) 79 (YR 15-16) A.M. [✓ P.M.]

Supervisor JmH Tim T

Collector(s) JmH

Delivered to lab 6 (MO) 19 (DAY) 79 (YR) [✓ A.M.] P.M.

by JmH

NPDES NO ____ (1-7) OUTFALL ____ (8-10)

3 (17)
1. NPDES
2. SPC 15
3. WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18) Category of Discharge
1. Industry
2. Semi-Public
3. Municipal
4. Federal
5. Public Water Supply
6. State operation
7. Other

1 (19) Sample Type
1. Grab
2. 24-hour comp.
3. 8-hour comp.
4. 24-hour flow comp.
5. 8-hour flow comp.

____ (20) Sample interval

0 (21)
0. at outfall
1. above outfall
2. below outfall

____ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No. ____ by ____

Rec'd ____ (MO DAY YR) ____ A.M. P.M.

by ____

CONTAINER TYPE & SIZE

glass [✓ 500 ml] 1 liter total no. 1

plastic 2 liter other ____

Standard method followed? all some none

TEMPERATURE & PRESERVATION

Samples refrig. or iced? all some none

Chlorinated samples? all some none

Standard method followed? all some none

Teflon capped Foil capped Solvent rinsed

TEMP ____ ° ____ ° ____ °

Reported out

SB1165-031
State Form [illegible]

CODE	PARAMETER	UNIT		LAB DATA
50-55 00410	Alkalinity Total $CaCO_3$	mg/l		56-61
00610	Ammonia N	mg/l		
01002	Arsenic	mg/l		
00310	BOD_5	mg/l		
01027	Cadmium	mg/l		
00940	Chloride	mg/l		
01032	Chromium-Hex	mg/l		
01034	Chromium-Tot	mg/l		
00340	COD	mg/l		
01042	Copper	mg/l		
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron-Total	mg/l		
01051	Lead	mg/l		
01055	Manganese	mg/l		
71900	Mercury-Total	PPB		
01067	Nickel	mg/l		
00630	NO_2+NO_3 N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH (lab)			
32730	Phenol	mg/l		
00665	Phosphorus-P	mg/l		
00530	Solids Susp	mg/l		
70300	Solids (total)	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	mg/l		
74055	Fecal coliform	100ml		
			7	

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling - Seymour Brown Substance Along Road S. of Laboratory Station No. 8

Sample Date 6 (MO 11-12) 15 (DAY 13-14) 79 (YR 15-16) A.M. [✓ P.M.]

Supervisor J M Hunt

Collector(s) JMH

Delivered to lab 6 (MO) 19 (DAY) 79 (YR) [✓ A.M.] P.M.

by JMH

NPDES NO ________ 1 - 7 OUTFALL ________ 8 - 10

3 (17)
1. NPDES
2. SPC 18
3. WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18) Category of Discharge
1. Industry
2. Semi-Public
3. Municipal
4. Federal
5. Public Water Supply
6. Mobile operation
7. Other

1 (19) Sample Type
1. Grab
2. 24-hour comp.
3. 8-hour comp.
4. 24-hour flow comp.
5. 8-hour flow comp.

____ (20) Sample interval

0 (21)
0 - at outfall
1 - above outfall
2 - below outfall

____ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No ____________ by ____________

Rec'd ____________ (MO DAY YR) ______ A.M. P.M.

by ____________

CONTAINER TYPE & SIZE

glass [✓ 500 ml] 1 liter total no 1

plastic 2 liter other ____________

Standard method followed? all some none

TEMPERATURE & PRESERVATION

Samples iced or cool? all some none

Chlorinated samples? all some none

Standard method followed? all some none

Teflon capped Foil capped Solvent rinsed

TEMP ______ ° ______ ° ______ °

Reported out

CODE	PARAMETER	UNIT		LAB DATA
28-33 00410	Alkalinity Total $CaCO_3$	mg/l		34-41
00610	Ammonia N	mg/l		
01000	Arsenic	mg/l		
00310	BOD_5	mg/l		
01027	Cadmium	mg/l		
00940	Chlorides	mg/l		
01032	Chromium-Hex	mg/l		
01034	Chromium-Tot	mg/l		
00340	COD	mg/l		
01042	Copper	mg/l		
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron-Total	mg/l		
01051	Lead	mg/l		
01055	Manganese	mg/l		
71900	Mercury-Total	PPB		
01067	Nickel	mg/l		
00630	NO_2+NO_3-N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH (lab)			
32730	Phenol	mg/l		
00670	Phosphorus-P	mg/l		
00547	Solids Susp	mg/l		
70401	Solids (total)	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	mg/l		
74055	Fecal coliform	100ml		
			7	

I.H.

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling - Seymour
BLACK VISCOUS waste west of LAB
IN Ditch Station No. 9

Sample Date 6 (MO 11-12) 15 (DAY 13-14) 79 (YR 15-16) A.M. [✓ P.M.]

Supervisor J m Hunt

Collector(s) JMH

Delivered to lab 6 (MO) 19 (DAY) 79 (YR) [✓ A.M.] P.M.

by JMH

NPDES NO ______ (1-7) OUTFALL ______ (8-10)

3 (17)
1 NPDES
2 SPC 10
3 WQ Study
4 Pollution complaint
5 Fish kill investigation

1 (18) Category of Discharge
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 Share operation
7 Other

1 (19) Sample Type
1 Grab
2 24-hour comp.
3 8-hour comp.
4 24-hour flow comp.
5 8-hour flow comp.

______ (20) Sample Interval

0 (21)
0 at outfall
1 above outfall
2 below outfall

______ (22-26) Stream miles from outfall

CODE	PARAMETER	UNIT		LAB DATA
30-33 00410	Alkalinity Total (CaCO$_3$)	mg/l		34-41
00610	Ammonia N	mg/l		
01002	Arsenic	mg/l		
00310	BOD$_5$	mg/l		
01027	Cadmium	mg/l		
00940	Chloride	mg/l		
01032	Chromium-Hex	mg/l		
01034	Chromium-Tot	mg/l		
00340	COD	mg/l		
01042	Copper	mg/l		
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron-Total	mg/l		
01051	Lead	mg/l		
01055	Manganese	mg/l		
71900	Mercury-Total	PPB		
01067	Nickel	mg/l		
00630	NO$_2$+NO$_3$ N	mg/l		
00560	Oil & Grease	mg/l		
00403	pH (lab)			
32730	Phenol	mg/l		
00665	Phosphorus-P	mg/l		
[illegible]	Solids Susp	mg/l		
70301	Solids (total)	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	mg/l		
74055	Fecal coliform	100ml		
			3	

LAB INFORMATION

Lab No ______ by ______

Rec'd ______ (MO DAY YR) ______ A.M. P.M.

by ______

CONTAINER TYPE & SIZE

glass [✓ 500 ml] 1 liter total no 1
plastic 2 liter other ______

Standard method followed? all some none

TEMPERATURE & PRESERVATION

Samples refrig. or iced? all some none
Chlorinated samples? all some none
Standard method followed? all some none
Teflon capped Foil capped Solvent rinsed
TEMP ______ ° ______ ° ______ °

Reported out

SBH 54-5?
State [illegible]

I H.

WATER SAMPLE IDENTIFICATION SHEET

/

Sample site Seymour Recycling - Seymour

2,4 S. of concrete slab Located W of

Tall Bldg - Reddick Co. Station No 10

Sample Date 6 (MO 11-12) 15 (DAY 13-14) 79 (YR 15-16) 3 A.M./[✓ P.M.]

Supervisor JM Hunt

Collector(s) JMH

Delivered to lab 6 (MO) 19 (DAY) 79 (YR) [✓ A.M.]/P.M.

by JMH

NPDES NO. ________ (1 - 7) OUTFALL ________ (8 - 10)

3 (17)
1 NPDES
2 SPC 16
3 WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18) Category of Discharge
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 Share operation
7 Other

1 (19) Sample Type
1 Grab
2 24-hour comp.
3 8-hour comp.
4 24-hour flow comp.
5 8-hour flow comp.

____ (20) Sample interval

0 (21)
0 - at outfall
1 - above outfall
2 - below outfall

____ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No ________ by ________

Rec'd ________ (MO DAY YR) ________ A.M./P.M.

by ________

CONTAINER TYPE & SIZE

glass [✓ 500 ml] 1 liter total no 1

plastic 2 liter other ________

Standard method followed? all some none

TEMPERATURE & PRESERVATION

Samples refrig. or iced? all some none

Chlorinated samples? all some none

Standard method followed? all some none

Teflon capped ____ ° Foil capped ____ ° Solvent rinsed ____ °

TEMP?

Reported out

CODE	PARAMETER	UNIT		LAB DATA
38-39 00410	Alkalinity Total CaCO$_3$	mg/l		34-41
00610	Ammonia N	mg/l		
01000	Arsenic	mg/l		
00310	BOD$_5$	mg/l		
01027	Cadmium	mg/l		
00940	Chloride	mg/l		
01032	Chromium Hex	mg/l		
01034	Chromium Tot	mg/l		
00340	COD	mg/l		
01042	Copper	mg/l		
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron-Total	mg/l		
01051	Lead	mg/l		
01055	Manganese	mg/l		
71900	Mercury-Total	PPB		
01067	Nickel	mg/l		
00630	NO$_2$+NO$_3$ N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH (lab)			
32730	Phenol	mg/l		
00665	Phosphorus-P	mg/l		
00530	Solids Susp	mg/l		
70300	Solids (total)	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	mg/l		
74055	Fecal coliform	100ml		
	Solvents		✓	

SBH-003
State

I. H.

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling - Seymour
Pooled waste south of "G" series Tanks.

Station No. 12

Sample Date 6 (MO 11-12) 15 (DAY 13-14) 79 (YR 15-16) A.M. [✓ P.M.]

Supervisor J M Hunt

Collector(s) J M Hunt

Delivered to lab 6 (MO) 19 (DAY) 79 (YR) [✓ A.M.] P.M.

by JMH

NPDES NO ______ 1-7 OUTFALL ______ 8-10

3 (17)
1 NPDES
2 EPC 18
3 WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18) Category of Discharge
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 Mining operation
7 Other

1 (19) Sample Type
1 Grab
2 2-hour comp.
3 8-hour comp.
4 24-hour flow comp.
5 8-hour flow comp.

______ (20) Sample Interval

2 (21)
0 at outfall
1 above outfall
2 below outfall

______ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No ______ by ______

Rec'd ______ MO DAY YR ______ A.M. P.M.

by ______

CONTAINER TYPE & SIZE

glass [✓ 500 ml] 1 liter total no 1
plastic 2 liter other ______

Standard method followed? all some none

TEMPERATURE & PRESERVATION

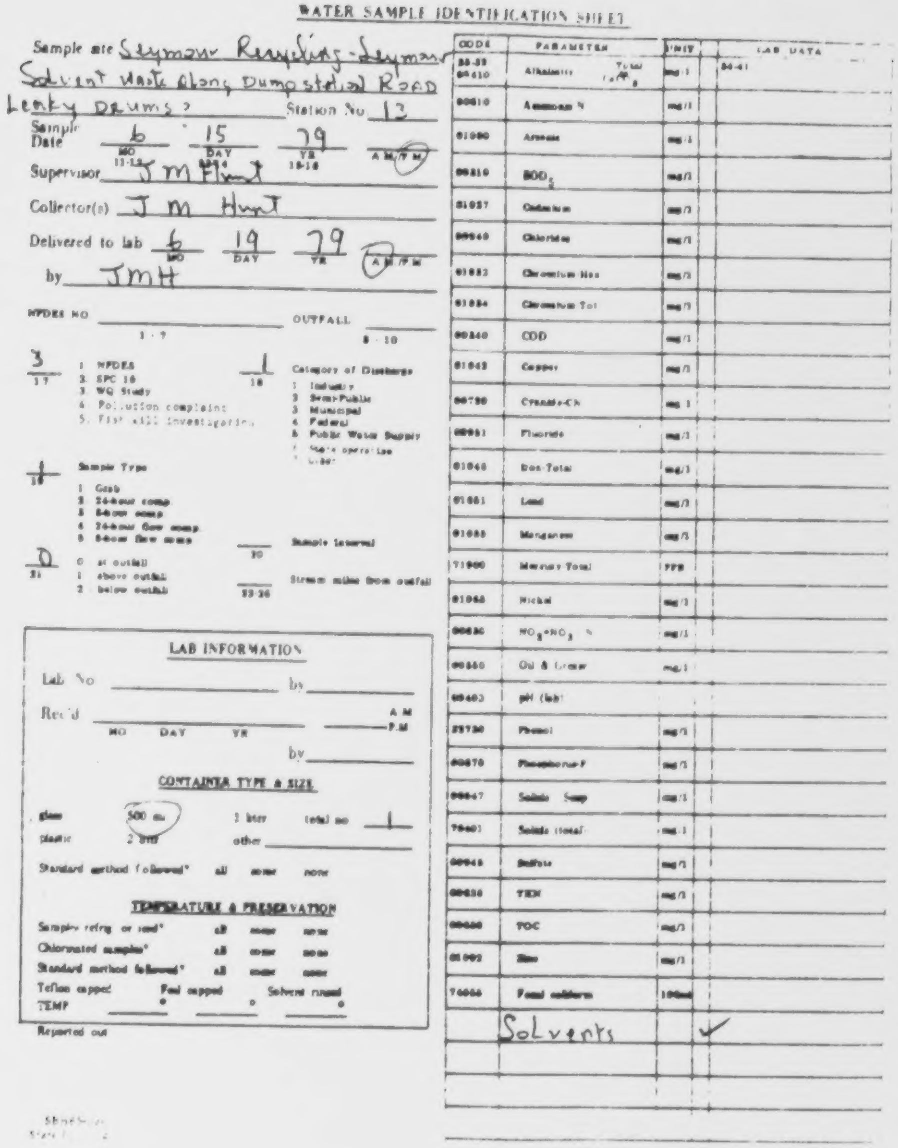
Samples refrig. or iced? all some none
Chlorinated samples? all some none
Standard method followed? all some none
Teflon capped Foil capped Solvent rinsed
TEMP ______° ______° ______°

Reported out

CODE	PARAMETER	UNIT		LAB DATA
38-39 00410	Alkalinity Total $CaCO_3$	mg/l		36-41
00610	Ammonia-N	mg/l		
01002	Arsenic	mg/l		
00310	BOD_5	mg/l		
01027	Cadmium	mg/l		
00940	Chloride	mg/l		
01032	Chromium-Hex	mg/l		
01034	Chromium-Tot	mg/l		
00340	COD	mg/l		
01042	Copper	mg/l		
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron-Total	mg/l		
01051	Lead	mg/l		
01055	Manganese	mg/l		
71900	Mercury-Total	PPB		
01067	Nickel	mg/l		
00630	NO_2+NO_3-N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH (lab)			
32730	Phenol	mg/l		
00665	Phosphorus-P	mg/l		
00530	Solids Susp	mg/l		
70300	Solids (total)	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	mg/l		
74055	Fecal coliform	100ml		
	[illegible]		✓	

[illegible]

I. H.



WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling - Seymour Solvent Waste along Dumpsite Road Leaky Drums ?

Station No 13

Sample Date 6 (MO 11-12) 15 (DAY 13-14) 79 (YR 15-16) AM [✓ PM]

Supervisor J M Flint

Collector(s) J M Hunt

Delivered to lab 6 (MO) 19 (DAY) 79 (YR) [✓ AM] PM

by JMH

NPDES NO ______ 1 - 7 OUTFALL ______ 8 - 10

3 (17)
1 NPDES
2 SPC 10
3 WQ Study
4 Pollution complaint
5 Fish kill investigation

1 (18) Category of Discharge
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 State operation
7 Other

1 (19) Sample Type
1 Grab
2 24-hour comp
3 8-hour comp
4 24-hour flow comp
5 8-hour flow comp

______ (20) Sample Interval

0 (21)
0 at outfall
1 above outfall
2 below outfall

______ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No ______ by ______

Rec'd ______ MO DAY YR ______ A.M. P.M.

by ______

CONTAINER TYPE & SIZE

glass [✓ 500 ml] 1 liter total no 1

plastic 2 liter other ______

Standard method followed? all some none

TEMPERATURE & PRESERVATION

Samples refrig. or iced? all some none

Chlorinated samples? all some none

Standard method followed? all some none

Teflon capped Foil capped Solvent rinsed

TEMP ______ ° ______ ° ______ °

Reported out

CODE	PARAMETER	UNIT		LAB DATA
33-39 00410	Alkalinity Total $CaCO_3$	mg/l		34-41
00610	Ammonia N	mg/l		
01000	Arsenic	mg/l		
00310	BOD_5	mg/l		
01027	Cadmium	mg/l		
00940	Chlorides	mg/l		
01032	Chromium Hex	mg/l		
01034	Chromium Tot	mg/l		
00340	COD	mg/l		
01042	Copper	mg/l		
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron-Total	mg/l		
01051	Lead	mg/l		
01055	Manganese	mg/l		
71900	Mercury Total	PPB		
01068	Nickel	mg/l		
00630	NO_2+NO_3 N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH (lab)			
32730	Phenol	mg/l		
00670	Phosphorus-P	mg/l		
00547	Solids Susp	mg/l		
70301	Solids (total)	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	mg/l		
74055	Fecal coliform	100ml		
	Solvents		✓	

June 22, 1979

Seymour Recycling Corporation
G Avenue W - Freeman Field
Seymour, Indiana 47274

Dear Sirs:

I have surveyed your operation two or three times in the past three months, and I am appalled at your housekeeping. Situated as you are in one of the finer areas of this community, I feel that you must clean up your area. It is both an "eye sore" and a "nose sore" for your neighbors. The standing water and trash cans that I surveyed are a potential breeding place for mosquitos, and also trash is a good area for rodents.

As you know you are being closely observed by the Jackson County Health Department, the Indiana State Board of Health, and by many people interested in environmental protection. I feel it is mandatory that you start immediately improving your local habitat by removing all excess and non-reusable items, such as, drums, storage tanks, equipment, and/or supplies. All low lying or potential ponding areas should be filled. All storage areas and access roads should be well defined.

If you are unable to do this I will feel mandated within sixty days to close your operation until you can get the minimum standards of cleanliness. If this stipulation cannot be met it is required that you contact this office with a suitable explanation.

Very truly yours,

J. M. Black, M.D.
Jackson County Health Officer

JMB/pl

STATE BOARD OF HEALTH

INDIANAPOLIS

C CE MEMORANDUM

DATE: 7-2-79

FROM: Jim Hunt

TO:

SUBJECT: Seymour Recycling – Seymour

On 7-2-79 at 11:45 AM I received a phone call from Jimmy Roan (317/635-5051) a representative of the Oil, Chemical + Atomic Workers Union. He represents union employees of SRC. They are currently on strike. He indicated that 6 union employees were upset with [illegible] at SRC and at least 3 of them feel strongly enough about it to testify. These are Millard Moore, Terry Tadlock and Lannie Reynolds.

Events witnessed by these employees include:

The spill which I observed on 9-26 + 27 was intentional. The Corp. punched holes in acid drums with a pick, releasing acid to the ditch. When the Corp. found out I was making an inspection they released "oil" from a tank to cover the acid.

There are two more ~~open~~ unsealed drums on SRC property which are being used to discharge to the city sewer.

(OVER)

Mr. Roane indicated that since (2) the strike SRC employees had thrown rocks at the picketers. The Seymour Chief of Police visited SRC in plain clothes & he was told by a non-union employee that "he (the employee) was tired of throwing rocks. Kovacs denied that the rock-throwing was occurring.

Roan also stated that Kovacs had approached the picket line with a pipe wrench in his hand and tried to get them to fight. The employees refused.

7-5-79 Phone conversation - Steve Zlatos.
9:00 AM

I related to Steve the information provided by Roan. He asked me to get additional information on the employees (age, phone #, place of resident, length of time employed, length of time in community, marital status). In response, at 9:15 AM I contacted Jimmy Roan and he gave me the phone #'s for Reynolds (812/522-7902) and Tadlock (812/793-3179). He didn't think Moore had a phone. Reynolds & Tadlock have been with SRC for approx 1 yr. & 4-5 yrs, respectively. I asked Roan to have the employees call me. ~~At 10:20 am~~

At 10:28 AM (7-5-79), Reynolds called me. He has been with SRC for 1 yr. 1 mo. and has participated and witnessed tank trailers of waste being discharged to the sanitary sewer. He didn't know the chemical characteristics of the waste. He did not have first-hand info. as to drums of oil being discharged to the ditch on-site. He said there has been very little activity at the site since Monday.

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STATE BOARD OF HEALTH

INDIANAPOLIS

OFFICE MEMORANDUM

DATE: 7-5-79

TO:

THRU:

FROM:

SUBJECT: SKF - Seymour

ne conversation with Reynolds informed:
ere is rumor that the Corporation is moving everything to amilton, Ohio. Thus far, a "honey dipper", dozer and 2 nk trailers have been moved out.

Reynolds stated he hadn't been disciplined by SKF during his employment [illegible]. He lives the west side of Seymour (1617 West Laurel St) and lived in the community all his life. He is married & have one ild.

STATE BOARD OF HEALTH

INDIANAPOLIS

OFFICE MEMORANDUM

DATE: July 10, 1979

TO: Seymour Recycling Corporation Files
Seymour, Indiana

THRU:

FROM: Jim Hunt

SUBJECT: Inspection of June 15, 1979

On June 15, 1979, Jim Hunt of the Division of Water Pollution Control made an inspection at Seymour Recycling. Bill Kovacs and Joe Pittman were contacted.

A tour of the facility revealed several spills. The following samples and photographs were taken:

1. Sample No. 2, photo No. 8
   Spill of "hex" in "hex" drum storage building.
2. Sample No. 2, photo No. 9
   Ditch contents being pumped to sanitary sewer east of yellow building.
3. Sample No. 3, photos 11 and 12
   Reddish-brown waste pooled on ground west of the drum crusher. Appeared to be leakage from drums. Strong solvent odor.
4. Sample No. 4, photo No. 14
   Discolored rainwater at south end of ditch paralleling the Pink Palace Road.
5. Sample No. 5, photo No. 15
   Brown waste in ditch which parallels the Pink Palace Road southwest of Pink Palace.
6. Sample No. 6, photo No. 16
   South end of the hypalon-lined ditch
7. Sample No. 7, photo No. 17
   Yellowish-white powder along road paralleling the southend of the property.
8. Sample No. 8, photo No. 18
   Brown liquid immediately east of sample No. 7.
9. Sample No. 9, photos No. 19 and 20
   Black viscous waste west of the lab in the ditch.

10. Sample No. 10, photos 1 and 2 (Second Roll)
Reddish solvent-type waste in pit south of the tall building concrete slab.

11. Sample No. 11, photo No. 3
"Hex" tank

12. Sample No. 12, photos No. 4 and 5
Black oily waste south of G "Series" tanks. Cresylic acid odor, possibly wire enamel.

13. Sample No. 13, no photos
Solvent of waste along dump station road, presumably leakage from recently received drums. Smells like lacquer thinner.

14. Sample No. 14, photo No. 6
Water in catch basin along east side of entrance drive and north of gate. Brown color and chemical odor.

15. Sample No. 15, no photo
Pooled waste in ditch immediately west of entrance drive and north of gate. Brown color and chemical odor.

16. Sample No. 16, no photo
Ditch approximately 150 feet northwest of corner of Seymour Recycling property. Beyond 100 right-of-way. Brown color and chemical odor.

17. Sample No. 17, no photo
Stream at County Road near Wilburt Otte Farm.

18. Sample No. 18, no photo
Oily substance at old sewage treatment plant lift station. Collected at approximately 9:40 a.m., E.S.T.

The samples were immediately iced and submitted to the State Board of Health Laboratories on June 19, 1979, Sample Nos. 3 through 10, 12, and 13 were delivered to the Industrial Hygiene Lab. The remaining samples were delivered to the Water Lab.

It was pointed out to Kovacs and Clay that Transenvironmental vehicles were still not properly identified pursuant to SPC 17. A trailer bearing Decal No. 187, Kentucky License No. T05-555 was not lettered. Another trailer van, Kentucky License No. T05-561 did not have lettering or decals. Kovacs agreed to properly license and identify the vehicles.

The Corporation's union contract expired on June 16, 1979, and there was some indication that the union employees would strike. Mr. Kovacs indicated that the Corporation was going to prepare for any potential problems by locking all building and tanks and manning the operations 24 hours a day. Only six of the 13 hourly employees belong to the union. Mr. Kovacs indicated that progress in cleanup of the site would not be hampered by the union problems. Win Enterprises will continue to process drums and if necessary Mr. Kovacs will bring in salaried people from the Chem-dyne and Carolawn operations to assist.

A concrete slab had been poured east of the Yellow Building and two storage tanks were in position. Joe Pittman indicated two more tanks were to arrive shortly. The tanks are being purchased from Story Oil, Seymour and have a capacity for approximately 12,000 gallons each.

Bob Gatte of the Jackson County Health Department indicated that a fire occurred at Seymour Recycling on May 31, 1979. The Seymour Fire Department was called to the scene. Joe Pittman indicated that faulty wiring on an electric motor ignited a pool of solvent at the drum dumping station. The fire was extinguished with foam by the fire department.

Prior to the above inspection, Jim Hunt and Chuck Wilson of the Division of Air Pollution Control Serviced the high-volume air sampler located on the H. O. Canfield Building. At approximately 9:40 a.m., E.S.T. Mr. Hunt collected a sample of oily substance from the lift station at the old sewage treatment plant. The field manhole between the lift station and Seymour Recycling was also checked and the water was clear and had no odor. If the material in the lift station was from Seymour Recycling it must of been the result of a previous discharge.

cc: Mr. George Halloran
Mr. Jim Hunt

STATE BOARD OF HEALTH

INDIANAPOLIS

OFFICE MEMORANDUM

DATE: July 18, 1979

O: Files

THRU:

ROM: Jim Hunt

UBJECT: Employee Complaint
Seymour Recycling
Seymour, Indiana

7/2/79
11:45 a.m. I returned a call made by a Jimmy Roan on 6/26/79. Mr. Roan identified himself as a representative of the Oil, Chemical and Atomic Workers Union, of which six Seymour Recycling employees are members. His office is located at 1345 N. Illinois, Indianapolis, and his phone number is (317) 638-5051.

Mr. Roan indicated that the union employees had complained to him that they had witnessed numerous illegal activities at SRC. The activities included picking holes in drums and releasing the contents to the soil and emptying tanks to the ditch and to the sewer. Three of the employees were very upset with the Corporation's actions and were willing to testify. The three employees were Millard Moore, Terry Tadlock and Lannie Reynolds. I indicated I could consult with our attorney and make an investigation.

7/5/79
9:15 a.m. I contacted Steve Zlatos of the Indiana Attorney General's Office (317/633-6237) and was advised to contact the employees and determine what activities the employees had witnessed and how credible their testimonies would be. I in turn contacted Jimmy Roan and secured phone numbers for Tadlock and Reynolds (812/793-3179 and 812/522-7902, respectively). He indicated Tadlock had been employed by SRC for 4-5 years and Reynolds had been there approximately one year. I subsequently called Reynolds' residence and was advised by his wife that he was on the picket line but she would give him a message to call me. Millard Moore did not have a home phone.

7/5/79
10:28 a.m. Lannie Reynolds called. He indicated that there had been very little activity at SRC since Monday (7-2). Several pieces of equipment (vacuum truck, dozer, trailers) had been moved out, reportedly to Chemdyne's facility in Hamilton, Ohio.

Reynolds indicated that he had not witnessed waste being drained to the soil by picking holes in drums; however, it is common knowledge among the employees that this practice routinely occurs. Reynolds has seen drums with pick holes in them. He believes that Win Enterprises, as well as management, is involved in this activity.

Reynolds indicated he had observed tank trailers of waste being discharged to the sanitary sewer; however, he was not aware of the chemical composition.

I asked Reynolds about the acid/oil spill which I observed in the ditch on September 26, 1979. He stated that he did'nt observe the incident but that he was told that SRC management had punched holes in drums of waste acid, releasing the contents to the ditch. When management became aware of the fact that an inspection was being made by the State Board of Health, they drained "oil" from a storage into the ditch to cover the acid.

He indicated that the drums of silver and nickel cyanide were reportedly run through the drum crusher.

Reynolds has been employed by SRC for 13 months and has not been disciplined by the Corp. during that period. He has lived in the City of Seymour all of his life and is married and has one child. He currently lives at 1617 Laurel St., approximately 2 mi. east of SRC.

Two other employees who may have witnessed illegal activities are Harry Warren and Roger Horton.

7/10/79 Phone conversation with Terry Tadlock. Terry Tadlock has lived in Crothersville, Indiana all his life (25 yrs.) and has been employed by SRC for 3 1/2 yrs. Tadlock indicated he had been told that drums of waste had been buried on-site on several occasions. Following are the locations:

1) Area between the lab and the underground bunker. Information was given to him by Darin Green after Green's employment was terminated.

2) Roger Horton had indicated that drums were buried on-site. Reportedly 900 drums buried on SRC property.

3) Drums are buried under the parking lot north of the office.

4) Drums are buried north of the Burner Road.

5) The drums in the diked area north of the fence appear to be stacked one high. However, they are really stacked two high, the first layer being buried.

The following additional information was provided by Tadlock:

1) He indicated that waste was being brought in "illegally" (violation of Agreed Order). He had been directed to distribute drums of "illegal" waste throughout the inventory to avoid detection by State inspectors.

2) Millard Moore observed Bill Kovacs and Joe Pittman open a valve to a tank, allowing waste to discharge to a ditch or a sanitary sewer.

3) The drums of silver and nickel cyanide had been lost and Pittman was trying to trach them down.

4) There has been very little activity at the site since last week. Equipment (welder, dozer, tow motor, pump tractor) was being moved out, reportedly to Hamilton, Ohio.

5) Various flammable wastes have been used in the Corp's. boiler other than fuel oil. These include hydraulic oil, motor oil and naphtha.

6) Approximately 1 year ago Lannie Reynolds and Tadlock were pumping drums of waste acid. Reynolds pulled a hose from a drum, spilling acid on Tadlock's leg. Tadlock was off work for 5 weeks.

7) Robert Stevens was another employee of SRC. A subsequent phone call to Stevens revealed he was not interested in getting involved. His phone number is 812/793-2972.

8) Millard Moore does not have a phone but can be contacted via his father's phone, which is 812/752-2527 (Scottsburg).

7/10/79
4:00 p.m. Millard Moore returned my phone call. He related the following information:

1) He has'nt seen drums being "picked" but he has seen pick holes in drums. Pittman bragged to him and other employees that he had picked drums of acid, resulting in the spill noted on September 26, 1978. He indicated they had drained oil onto the acid to conceal the acid. Pittman reportedly did most of the picking.

2) Moore has observed the contents of a 30,000-gallon tank being discharged to the sanitary sewer.

3) There are two sanitary sewer drains which the Company has been using to discharge to the sanitary sewer. One is located in the sidewalk along the east side of the "yellow building" at the south end. When inspectors visit the site, the drain is covered with a rock. The other drain is at the west side of the west scrubber water tank.

4) The Corp. has brought illegal loads of waste onto the site, including drums of filters.

5) It is Moore's opinion that there has not been a significant reduction in the number of drums on-site since the current management purchased the site.

6) Millard Moore has been with SRC for 3 yrs. and has lived in Scottsburg for 28 yrs.

JMHunt/nlg

STATE BOARD OF HEALTH

INDIANAPOLIS

OFFICE MEMORANDUM

DATE: 7-23-79

TO: File - Seymour Recycling - Seymour

THRU:

FROM: Jim Hunt

SUBJECT: Inspection of 7-23-79

Jim Reynolds and Jim Hunt were accompanied by Charles Lay on an inspection of the plant. The following conditions were noted:

1) A waste acid dump station had been located in the acid drum storage area S of the offices. The facility consisted of a 1000-gal. ~~tank~~ open-top fiberglass tank buried so that (ie top of the tank was ground level. There was not. guard rail or grating to prevent employees from falling in. I pointed out the need for protection around or over the tank.

2) The old mechanised dump station had been made inoperative by a recent fire and would probably not be restored. Instead, the Company is going to install dump stations similar to the acid dump station at various locations to manually empty drums.

3. The stills were not operating during the inspection. According to Clay they had finished the "Armco" material and were going to ~~to~~ reclaim perchloroeth line with the "Brighton" still.

4) During the inspection on 7-11-79, George Holloran and I had spotted a drain in the concrete sidewalk east of the yellow building. At that time Dave Hess could not provide a water supply to determine where it discharged to. Clay located a garden hose so

[illegible]

the hose in it. ~~Future~~ According to Clay between 7-11-79 nd the time of this inspection the Company had plugged he drain. Apparently the ~~[illegible]~~ attempt to seal the dr ~~is~~ was not effective because water was slowly eeping. After several minutes ~~the~~ on inspection of he manhole along the "Burner Road" showed no signs of the Fluorescein dye entering the tile at that time. We then called Gary Hukill, Seymour STP operator, to ~~ope~~ unlocked the other manhole for an inspection. By the time Gary arrived the dye was flowing through the tile at the first manhole. Thus, we confirmed, in the presence of Gary Hukill and Charles Clay, that the drain adjacent to the Yellow Building was connected to the sanitary sewer.

The copies of SRC files were delivered to ~~the~~ SRC. A ompany check was received from Betty Quigly and delivered to the SBH cashier.

As usual, the site was very messy with numerous spills noted.

STATE BOARD OF HEALTH

INDIANAPOLIS

OFFICE MEMORANDUM

DATE: August 7, 1979

TO: Seymour Recycling File
Seymour, Indiana

THRU:

FROM: Jim Hunt

SUBJECT: Inspection of July 11, 1979

On July 11, 1979, George Halloran and Jim Hunt made an inspection at Seymour Recycling. Dave Hess was contacted. The only other employee on the property was Betty Quigley.

Dave accompanied us on inspection of the plant. Shortly after the start of the inspection he was advised by Mr. Pollen's office that State Board of Health employees were not to make inspection at Seymour Recycling until after July 12, 1979. Jim Hunt subsequently contacted Mr. Steve Zlatos of the Attorney General's Office and Steve advised us to proceed with the inspection unless forcefully compelled to leave the property. Mr. Hess was cooperative with us.

It had recently rained in the vicinity of Seymour and there were numerous pools of contaminated water on Seymour Recycling property. Although the ditches were relatively full and the catch basin east of the entrance gate driveway was at the point of overflowing, no actual discharge of wastewater from the property was observed. As usual, ponds of discolored water in the ditch west of the entrance driveway revealed that discharges had occurred.

The following conditions were noted during a tour of the facility:

1. There was no activity in any of the facilities and all the building were locked to prevent sabotage by union strikers.

2. The spill which was observed and sampled on June 15, 1979, by Hunt had not been cleaned up. The spill is located west of the drum crusher and was reddish-brown with a solvent odor. Dave was requested to advised the appropriate people that the waste needed to be cleaned up.

3. A drum was noticed along the driveway southeast of the drum crusher. It contained several approximately one-inch round holes around the bottom of the drum, as if someone had intentionally punched holes in it with a sharp object to release the contents to the soil. Residue was deposited on the soil around the drum indicating that a discharge had occurred.

4. A milky liquid was observed pooled in an area north of the underground bunker.

5. It was noticed that a rock was placed over a drain in the concrete sidewalk along the east side of the south end of the "yellow building." John Hall had been asked to locate the drains during a previous inspection but had never shown us this one. A black tarry residue was observed on the concrete adjacent to the drain. I attempted to determine where the tile lead to by using fluorescein dye, however, we could not locate a water supply to flush it through the tile.

6. The manhole immediately south of the Burner Road" was unlocked and the cover was partially removed. Dave did not know how long it had been unlocked. There was no flow at this manhole or the field tile manhole.

Prior to visiting Seymour Recycling we met with Gary Hukill, Certified Operator of the sewage treatment plant. Gary indicated that Seymour Recycling had discharged wastewater to the sanitary sewer on April 12, May 21 and June 15, 1979. The manhole at Seymour Recycling was locked on June 15 by the sewage treatment plant personnel. According to Gary, Seymour Recycling had no keys to the manhole paddlocks. An automatic sampler was placed in the field manhole during each discharge but the samples were not retain after analyses were performed by the sewage treatment plant. The cooling water discharge was monitored on June 12, 13 and 14 and the results are available.

JMHunt/cgp
cc: George Halloran
Jim Reynolds
Jim Hunt

Seymour Recycling - Seymour

WATER SAMPLE IDENTIFICATION SHEET

Sample Site Ditch contents immediately W. of "yellow Bldg." - Being pumped to city sewer

Station Number 2

Sample Date 6 (Mo 11-12) 15 (Day 13-14) 79 (Yr 15-16) AM [✓ PM]

Supervisor J M Hunt

Collector(s) J M H

Delivered to lab 6 (M.) 19 (Day) 79 (Yr.)

By J M. Hunt

	Kind	Lot No	Amount
Preservatives Added	NONE		
ICED			

Sample Chlorinated ____ Not Chlorinated ✓

	Field	Lab
No. of 1 Liter Plastic Bottles		
No. of 2 Liter Plastic Bottles		
No. of Bacteriological Bottles		
No. of Glass Jars or Bottles	1	
Total		

Standard Procedure Followed All Some None

NPDES Number ____ (1-7) Outfall ____ (8-10)

3 (17)
1. NPDES
2. SPC-15
3. WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18)
1. Industry
2. Semi-Public
3. Municipal
4. Federal
5. Public Water Supply
6. State operation
7. Other

1 (19)
Sample Type
1. Grab
2. 24-hour comp
3. 8-hour comp
4. 24-hour flow comp
5. 8-hour flow comp

____ (20) Sample Interval

0 (21)
0 - at outfall
1 - above outfall
2 - below outfall

____ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No 1457 Date [illegible] (Mo Day Yr AM/PM)

Rec'd by [illegible]

Temp of samples when received [illegible]

Comments

REPORTED

WATER LABORATORY

CODE	PARAMETERS	UNIT		LAB DATA
28-32 00410	Alkalinity Total CaCO3	mg/l		34-41
00610	Ammonia-N	mg/l		
01002	Arsenic	ug/l		
00310	BOD5	mg/l		
01027	Cadmium ToT	ug/l	✓	10 ①
00940	Chlorides	mg/l		
01032	Chromium-Hex	ug/l		
01034	Chromium-Tot	ug/l	✓	0.55
00335	COD	mg/l		
01042	Copper Tot	ug/l	✓	510. ①
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron	ug/l		
01051	Lead Tot	ug/l	✓	270. ①
01055	Manganese	ug/l		
71900	Mercury	ug/l		
01067	Nickel Tot	ug/l	✓	90. ①
00630	$NO_2 + NO_3$-N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH (lab)	S.U.		
32730	Phenol	ug/l		
00665	Phosphorus-P	mg/l		
00530	Solids - Susp	mg/l		
00500	Solids (total)	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc Tot	ug/l	✓	450 ①
31616	Fecal coliform	100 ml		

① = DIGESTED PER EPA PROCEEDURE

SBH65-030
State Form 1490

WATER SAMPLE IDENTIFICATION SHEET

Sample Site BLANK - Distilled H_2O

Station Number 19

Sample Date 6 (Mo 11-12) 15 (Day 13-14) 79 (Yr 15-16) ____ AM PM

Supervisor J M Hunt

Collector(s) J M Hunt

Delivered to lab 6 (Mo) 19 (Day) 79 (Yr) [✓ AM]/PM

By J M H.

	Kind	Lot No	Amount
Preservatives Added	NaOH		
	H_2SO_4		
	HNO_3		

Sample Chlorinated ____ Not Chlorinated ✓

	Field	Lab
No. of 1 Liter Plastic Bottles		
No. of 2 Liter Plastic Bottles		
No. of Bacteriological Bottles		
No. of Glass Jars or Bottles		
Total		

Standard Procedure Followed All Some None

NPDES Number ____ (1-7) Outfall ____ (8-10)

____ (17)
1 NPDES
2 SPC 15
3 WQ Study
4 Pollution complaint
5 Fish kill investigation

____ (18)
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 State operation
7 Other

____ (19) Sample Type
1 Grab
2 24-hour comp
3 8-hour comp
4 24-hour flow comp
5 8-hour flow comp

____ (20) Sample Interval

____ (21)
0 at outfall
1 above outfall
2 below outfall

____ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No. 1452 Date 6 (Mo) - 19 (Day) - 79 (Yr) AM/PM

Rec'd by J A

Temp of samples when received 5°

Comments

CODE	PARAMETERS	UNIT		LAB DATA
28-32 00410	Alkalinity Total $CaCO_3$	mg/l		34-41
00610	Ammonia-N	mg/l	✓	<0.1
01002	Arsenic	[✓ ug/l]	✓	< 1.
00310	BOD	mg/l		
01027	Cadmium	[✓ ug/l]	✓	< 10.
00940	Chlorides	mg/l		
01032	Chromium-Hex	ug/l		
01034	Chromium Tot	[✓ ug/l]	✓	< 10.
00335	COD	mg/l		
01042	Copper	[✓ ug/l]	✓	< 20.
00720	Cyanide-CN	mg/l	✓	<0.005
00951	Flouride	mg/l		
01045	Iron	ug/l		
01051	Lead	[✓ ug/l]	✓	< 20.
01055	Manganese	ug/l		
71900	Mercury	ug/l		
01067	Nickel	[✓ ug/l]	✓	< 20.
00630	NO_2+NO_3-N	mg/l		
00550	Oil & Grease	mg/l		
00400	pH	S.U.		
32730	Phenol	[✓ ug/l]	✓	< 5.
00665	Phosphorus-P	mg/l	✓	< 0.03
00530	Solids Susp	mg/l		
00500	Solids Total	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l	✓	< 1.0
01092	Zinc	[✓ ug/l]	✓	< 60.
31616	Fecal coliform	100 ml		

REPORTED
1978

WATER LABORATORY
IND. STATE BD. OF HEALTH

SBH05.0.0
State Form 1496

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling - Seymour Ditch approx 150' NW of SRC fence. Off property
Station No. 16
Sample Date 6 (MO 11-12) 15 (DAY 13-14) 79 (YR 15-16) AM [✓ PM]
Supervisor J M Hunt
Collector(s) JMH
Delivered to lab 6 (MO) 19 (DAY) 79 (YR) [✓ AM] PM
by JMH

NPDES NO ______ (1-7) OUTFALL ______ (8-10)

3 (17)
1. NPDES
2. SPC 18
3. WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18) Category of Discharge
1. Industry
2. Semi-Public
3. Municipal
4. Federal
5. Public Water Supply
7. State operation

1 (19) Sample Type
1. Grab
2. 24-hour comp.
3. 8-hour comp.
4. 24-hour flow comp.
5. 8-hour flow comp.

______ (20) Sample Interval

2 (21)
0. at outfall
1. above outfall
2. below outfall

Stream miles from outfall

REPORTED
2 8 1979
WATER LABORATORY
IND. STATE BD. OF HEALTH

LAB INFORMATION

Lab No 1454 by [illegible]
Rec'd 6 (MO) 19 (DAY) 79 (YR) 7 [✓ AM] PM
by [illegible]

CONTAINER TYPE & SIZE

glass 500 ml [✓ 1 liter] PLASTIC total no 4
plastic 2 liter other ______
Standard method followed? all some none

TEMPERATURE & PRESERVATION

Sample refrig. or iced? [✓ all] some none
Chlorinated samples? all some none
Standard method followed? [✓ all] some none
Teflon capped ° Foil capped ° Solvent rinsed °
TEMP

Reported out
[illegible]

CODE	PARAMETER	UNIT		LAB DATA
24-33 00410	Alkalinity Total $CaCO_3$	mg/l		34-41
00610	Ammonia-N	mg/l	✓	0.1
01002	Arsenic	mg/l	✓	0.008
00310	BOD_5	mg/l		
01027	Cadmium T.T.	mg/l	✓	0.03 ①
00940	Chlorides	mg/l		
01032	Chromium-Hex	mg/l	✓	<0.01
01034	Chromium-Tot	mg/l	✓	14.
00340	COD	mg/l	✓	560.
01042	Copper T.T.	mg/l	✓	0.12 ①
00720	Cyanide-CN	mg/l	✓	0.007
00951	Fluoride	mg/l	✓	0.6
01045	Iron-Total	mg/l		
01051	Lead T.T.	mg/l	✓	0.08 ①
01055	Manganese	mg/l		
71900	Mercury-Total	PPB		
01067	Nickel	mg/l	✓	0.02 ①
00630	NO_2+NO_3-N	mg/l		
00560	Oil & Grease	mg/l		
00403	pH (lab)			
32730	Phenol	mg/l	✓	0.66
00665	Phosphorus-P	mg/l	✓	0.08
00530	Solids Susp	mg/l		
70300	Solids (total)	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l	✓	130.
01092	Zinc T.T.	mg/l	✓	0.16 ①
74055	Fecal coliform	100ml		
① = 1	RESTEL	- A1		TK: CEE [illegible]

SBH65-030
State Form 149C

WATER SAMPLE IDENTIFICATION SHEET

Sample Site Seymour Recycling - Seymour

Spill of hex" on floor of building where drums of "hex" stored

Station Number 1

Sample Date 6 (Mo. 11-12) 15 (Day 13-14) 79 (Yr. 15-16) AM [✓ PM]

Supervisor J M Hunt

Collector(s) J M H

Delivered to lab 6 (Mo.) 19 (Day) 79 (Yr.) [✓ AM] PM

By J M Hunt

	Kind	Lot No.	Amount
Preservatives Added	NONE		

Sample Chlorinated ______ Not Chlorinated ✓

	Field	Lab
No. of 1 Liter Plastic Bottles		
No. of 2 Liter Plastic Bottles		
No. of Bacteriological Bottles		
No. of Glass Jars or Bottles	1	
Total	1	

Standard Procedure Followed All Some None N.A.

NPDES Number ______ (1-7) Outfall ______ (8-10)

3 (17)
1. NPDES
2. SPC-15
3. WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18)
1. Industry
2. Semi-Public
3. Municipal
4. Federal
5. Public Water supply
6. State operation
7. Other

1 (19) Sample Type
1. Grab
2. 24-hour comp
3. 8-hour comp
4. 24-hour flow comp
5. 8-hour flow comp

______ (20) Sample interval

0 (21)
0 - at outfall
1 - above outfall
2 - below outfall

______ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No. 1457 Date 6 (Mo.) ______ (Day) ______ (Yr.) ______ (AM/PM)

Rec'd by [illegible]

Temp of samples when received [illegible]

Comments

REPORTED

[illegible] 1979

SBH65-030
State Form 1490

CODE	PARAMETERS	UNIT		LAB DATA
28-32 00410	Alkalinity Total CaCO3	mg/l		34-41
00610	Ammonia-N	mg/l		
01002	Arsenic	ug/l		
00310	BOD$_5$	mg/l		
01027	Cadmium	ug/l		
00940	Chlorides	mg/l		
01032	Chromium-Hex	ug/l		
01034	Chromium-Tot	ug/l		
00335	COD	mg/l		
01042	Copper	ug/l		
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron	ug/l		
01051	Lead	ug/l		
01055	Manganese	ug/l		
71900	Mercury	ug/l		
01067	Nickel	ug/l		
00630	NO$_2$-NO$_3$-N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH (lab)	S.U.		
32730	Phenol	ug/l		
00665	Phosphorus-P	mg/l		
00530	Solids (Susp)	mg/l		
00500	Solids (Total)	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	ug/l		
31616	Fecal coliform	100 ml		
Hexachlorocyclopentadiene			✓	1.5% [illegible]
				[illegible]

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling - Seymour
Catch basin Along E side of entrance
Drive - N. of gate Station No. 14
Sample Date 6 (MO 11-12) 15 (DAY 13-14) 79 (YR 15-16) A.M./[✓ P.M.]
Supervisor J McHunt
Collector(s) J M H
Delivered to lab 6 (MO) 19 (DAY) 79 (YR.) [✓ A.M.]/P.M.
by J mH

NPDES NO. ______ (1 - 7) OUTFALL ______ (8 - 10)

3 (17)
1 NPDES
2 SPC 15
3 WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18) Category of Discharge
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 State operation
7 Other

1 (19) Sample Type
1 Grab
2 24-hour comp.
3 8-hour comp
4 24-hour flow comp
5 8-hour flow comp

______ (20) Sample Interval

2 (21)
0 at outfall
1 above outfall
2 below outfall

______ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No 1456 by [illegible]
Rec'd 6 (MO) 19 (DAY) 79 (YR) 9 [✓ AM]/PM
by [illegible]

CONTAINER TYPE & SIZE

glass 500 ml [✓ 3 - 1 liter] total no 4
plastic [✓ 1 - 2 liter] other ______
Standard method followed* all some none

TEMPERATURE & PRESERVATION

Sample refrig or iced* [✓ all] some none
Chlorinated samples* all some none
Standard method followed* [✓ all] some none
Teflon capped ______° Foil capped ______° Solvent rinsed ______°
TEMP

Reported out

REPORTED

SBH65-030
State Form 1490

WATER LABORATORY
IND[illegible] OF HEALTH

CODE	PARAMETER	UNIT		LAB DATA
28-32 00410	Alkalinity Total $CaCO_3$	mg/l		34-41
00610	Ammonia N	mg/l	✓	4.2
01000	Arsenic	mg/l	✓	0.034
00310	BOD_5	mg/l		
01027	Cadmium Tot.	mg/l	✓	0.06 Ⓓ
00940	Chlorides	mg/l		
01032	Chromium-Hex	mg/l	✓	<0.01
01034	Chromium-Tot	mg/l	✓	0.50
00340	COD	mg/l	✓	7600.
01042	Copper	mg/l	✓	0.61 Ⓓ
00720	Cyanide-CN	mg/l	✓	0.019
00951	Fluoride	mg/l	✓	0.9
01045	Iron-Total	mg/l		
01051	Lead Tot.	mg/l	✓	0.36 Ⓓ
01055	Manganese	mg/l		
71900	Mercury-Total	PPB		
01065	Nickel	mg/l	✓	0.10 Ⓓ
00630	NO_2+NO_3 - N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH (lab)		✓	7.4
32730	Phenol	mg/l	✓	73.
00670	Phosphorus-P	mg/l	✓	2.3
00547	Solids Susp	mg/l	✓	300.
70401	Solids (total)	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l	✓	1900.
01092	Zinc	mg/l	✓	0.68 Ⓓ
74055	Fecal coliform	100ml		

D = DIGESTED - EPA PROCEDURE.

N.D.

Aporox 3000' NW of SLC.

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling - Seymour
Sample from Ditch at County Road
NE. of Witherst [illegible] Res. Station No. 17
Sample Date 6 (MO 11-12) 15 (DAY 13-14) 79 (YR 15-16) A M [✓ P M]
Supervisor J m Hunt
Collector(s) J m H.
Delivered to lab 6 (MO) 19 (DAY) 79 (YR) A M [✓ P M]
by J m H

NPDES NO. ______ (1 - 7) OUTFALL ______ (8 - 10)

3 (17)
1 NPDES
2 SPC 16
3 WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18) Category of Discharge
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 State operation
7 Other

1 (19) Sample Type
1 Grab
2 24-hour comp
3 8-hour comp
4 24-hour flow comp
5 8-hour flow comp

2 (21)
0 at outfall
1 above outfall
2 below outfall

______ (20) Sample Interval
______ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No. 1453 by [illegible]
Rec'd 6 - [illegible] (MO DAY YR) [illegible] A.M. P.M.
by [illegible]

CONTAINER TYPE & SIZE

glass 2 (500 ml) 2 (1 liter) total no 42
plastic 2 liter other ______
2 glass jars used instead of 2 L plastic.
Standard method followed? all some none
use glass jar for phenols

TEMPERATURE & PRESERVATION

Samples refrig or iced? all some none
Chlorinated samples? all some none
Standard method followed? all some none
Teflon capped Foil capped Solvent rinsed
TEMP ______ ° ______ ° ______ °

Reported out
No nutrient bottle
~~[illegible]~~

CODE	PARAMETER	UNIT		LAB DATA
38-33 00410	Alkalinity Total CaCO$_3$	mg/l		34-41
00610	Ammonia N	mg/l	✓	0.1
01000	Arsenic	mg/l	✓	0.010
00310	BOD$_5$	mg/l		
01027	Cadmium	mg/l	✓	<0.01
00940	Chlorides	mg/l		
01032	Chromium Hex	mg/l	✓	<0.01
01034	Chromium Tot	mg/l	✓	<0.01
00340	COD	mg/l	✓	20.
01042	Copper	mg/l	✓	<0.02
00720	Cyanide-CN	mg/l	✓	<0.005
00951	Fluoride	mg/l	✓	0.2
01045	Iron Total	mg/l		
01051	Lead	mg/l	✓	<0.02
01055	Manganese	mg/l		
71900	Mercury Total	PPB		
01065	Nickel	mg/l	✓	<0.02
00630	NO$_2$+NO$_3$ N	mg/l		
00560	Oil & Grease	mg/l		
00403	pH (lab)			
32730	Phenol	mg/l	✓	<0.005
00670	Phosphorus-P	mg/l	✓	0.01
00547	Solids Susp	mg/l		
70301	Solids (total)	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l	✓	6.9
01092	Zinc	mg/l	✓	<0.02
74055	Fecal coliform	100ml		

REPORTED
12/1978
[illegible] LABORATORY

WD

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling - Seymour
Catch basin along west side of entrance Drive, N. of gate Station No 15
Sample Date 6 (MO 11-12) 15 (DAY 13-14) 79 (YR 15-16) A.M. [✓ P.M.]
Supervisor JMH int
Collector(s) JMH
Delivered to lab 6 (MO) 19 (DAY) 79 (YR) [✓ A.M.] P.M.
by JMH

NPDES NO ______ 1-7 OUTFALL ______ 8-10

3 (17)
1. NPDES
2. SPC 15
3. WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18) Category of Discharge
1. Industry
2. Semi-Public
3. Municipal
4. Federal
5. Public Water Supply
6. Staple operation
7. Other

1 (19) Sample Type
1. Grab
2. 24-hour comp
3. 8-hour comp
4. 24-hour flow comp
5. 8-hour flow comp

______ (20) Sample Interval

2 (21)
0. at outfall
1. above outfall
2. below outfall

______ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No 1455 by [illegible]
Rec'd 6-19-79 (MO DAY YR) 9 A.M. P.M.
by [illegible]

CONTAINER TYPE & SIZE

glass 500 ml [✓ 3 - 1 liter] total no 4
plastic [✓ 1 - 2 liter] other ______
Standard method followed? all some none

TEMPERATURE & PRESERVATION

Samples refrig or iced? [✓ all] some none
Chlorinated samples? all some none
Standard method followed? [✓ all] some none
Teflon capped ______ Foil capped ______ Solvent rinsed ______
TEMP 5 °C ______ ° ______ °

Reported out

REPORTED
1979

SBH65-030
State Form 1490

WATER LABORATORY
IND. STATE BD. OF HEALTH

CODE	PARAMETER	UNIT		LAB DATA
38-39 00410	Alkalinity Total $CaCO_3$	mg/1		34-41
00610	Ammonia N	mg/1	✓	4.0
01000	Arsenic	mg/1	✓	0.02c
00310	BOD_5	mg/1		
01027	Cadmium T.T.	mg/1	✓	0.06c
00940	Chlorides	mg/1		
01032	Chromium Hex	mg/1	✓	<0.01
01034	Chromium Tot	mg/1	✓	0.60
00340	COD	mg/1	✓	5300.
01042	Copper Tc	mg/1	✓	0.17c
00720	Cyanide-CN	mg/1	✓	0.160
00951	Fluoride	mg/1	✓	0.9
01045	Iron-Total	mg/1		
01051	Lead Tc	mg/1	✓	0.37c
01055	Manganese	mg/1		
71900	Mercury Total	PPB		
01065	Nickel T.T.	mg/1	✓	0.06c
00630	NO_2+NO_3 N	mg/1		
00550	Oil & Grease	mg/1		
00403	pH (lab)		✓	7.4
32730	Phenol	mg/1	✓	58.
00670	Phosphorus-P	mg/1	✓	3.1
00547	Solids Susp	mg/1	✓	65.
70401	Solids (total)	mg/1		
00945	Sulfate	mg/1		
00625	TKN	mg/1		
00680	TOC	mg/1	✓	1400.
01092	Zinc	mg/1	✓	0.49c
74055	Fecal coliform	100ml		
D-[illegible]		EPA		[illegible]

W.P.

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling - Seymour
Waste accumulated in plastic sheet on end of hex tank. Station No 11

Sample Date 6 (MO 11-12) 15 (DAY 13-14) 79 (YR 15-16) AM [✓ PM]

Supervisor J M Hunt

Collector(s) J M Hunt

Delivered to lab 6 (MO) 17 (DAY) 79 (YR) [✓ AM] PM

by J M H

NPDES NO. ______ (1-7) OUTFALL ______ (8-10)

3 (17)
1. NPDES
2. SPC 15
3. WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18) Category of Discharge
1. Industry
2. Semi-Public
3. Municipal
4. Federal
5. Public Water Supply
6. State operation
7. Other

1 (19) Sample Type
1. Grab
2. 24-hour comp.
3. 8-hour comp.
4. 24-hour flow comp.
5. 8-hour flow comp.

______ (20) Sample Interval

0 (21)
0 - at outfall
1 - above outfall
2 - below outfall

______ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No 1457 by [illegible]

Rec'd 6 (MO) 17 (DAY) 79 (YR) 9 AM/PM

by [illegible]

CONTAINER TYPE & SIZE

glass [✓ 500 ml] 1 liter total no 1

plastic 2 liter other ______

Standard method followed? all some none

TEMPERATURE & PRESERVATION

Samples refrig. or iced? [✓ all] some none

Chlorinated samples? all some [✓ none]

Standard method followed? [✓ all] some none

Teflon capped Foil capped Solvent rinsed

TEMP ______° ______° ______°

Reported out

REPORTED
WATER LABORATORY

SBH65-030
State Form 1490

CODE	PARAMETER	UNIT		LAB DATA
33-35 00410	Alkalinity Total $CaCO_3$	mg/l		36-41
00610	Ammonia N	mg/l		
01000	Arsenic	mg/l		
00310	BOD_5	mg/l		
01027	Cadmium	mg/l		
00940	Chlorides	mg/l		
01032	Chromium-Hex	mg/l		
01034	Chromium Tot	mg/l		
00340	COD	mg/l		
01042	Copper	mg/l		
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron-Total	mg/l		
01051	Lead	mg/l		
01055	Manganese	mg/l		
71900	Mercury-Total	PPB		
01067	Nickel	mg/l		
00630	NO_2+NO_3 N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH (lab)			
32730	Phenol	mg/l		
00670	Phosphorus-P	mg/l		
00530	Solids Susp	mg/l		
70300	Solids (total)	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	mg/l		
74055	Fecal coliform	100ml		
hexachlorocyclopentadiene				1.6%
				[illegible]

STATE BOARD OF HEALTH
INDIANAPOLIS

OFFICE MEMORANDUM

TO: Files - SRC

DATE: 8-29-79

THRU:

FROM: Jim Hunt

SUBJECT: Transportation by Multichem., Bowling Green, Ky.

While changing the air filter at H.O. Camfield on 8-27-79 I noticed a truck with a blue cab & approx 16' covered van leave Seymour Recycling, Seymour. As I was leaving Seymour I noticed the same truck parked at the "Stop 50" truck stop, located on ~~Sta~~ U.S. 50 on the east side of Seymour. The truck was unattended and a black liquid with a solvent odor was leaking from the bed at several locations.

I then drove to the State Police Post a short distance away and notified the clerk, who in turn requested a Sgt. Welman and another officer to accompany me to the truck stop. The truck driver was located and was identified as Michael Gough. Mr. Gough indentified the waste as drums of "old shield wash" from Multichem., Bowling Green, Ky. The shipping paper was very poorly completed. The only information ~~[illegible]~~ provided ~~being the~~ was the (Multichem) Company's letterhead and a hand written "Seymour Recycling" as the destination point and "old shield ~~[illegible]~~ wash" as the description of the cargo. Mr. Gough indicated there were 37 drums on the load and he left Multichem at approx. 10:30 AM on 8-27-79.

An inspection of the cargo that a drum in the center f the truck was leaking badly. ~~F[illegible] drums~~ No identification was noticed on the drums. Some of the drums contained flammable labels and others didn't. The outside of the truck was placarded "flammable".

The Truck bore Ky lic. # 2CP-757 and La lic. # 71081. According to the shipping paper the Company's address is P.O. Box 3590 & ph. # is 502/781-7880.

I ~~accompanied~~ followed the truck to Seymour Recycling to be unloaded. According to Mr. Gough ~~to~~ the truck could not be unloaded the first time because SRC was busy unloading another truck. Therefore, We drove to the "truck stop" to wait.

Rick Dixon was contacted at SRC

8-29-79 12:15PM called Mattishen. Malon will call ~ 1 hr.

8-29-79 1:30PM - Jim Malon R my call.

I expressed my concern with the quality of the shipping papers, the lack of flammable placards on the drums, and the leaky loads. I also notified him that an SPC-17 permit is required. He asked me to send him an application orm.

February 6, 1980

Hon. Chris Morits
Mayor of Seymour
City Building
220 N. Chestnut St.
Seymour, Indiana 47274

Dear Mayor Morits:

Since my phone conversation with you on Tuesday in reference to Seymour Recycling, I have been considerably concerned about some of our discussion.

Personally I feel there may be some misunderstanding and or misinformation in regards to Seymour Recycling Company.

I am enclosing a partial list of some materials stored and or processed at Seymour Recycling Company. I am asking that you go over this list and decide for yourself if there are not dangerous materials at this facility.

Also, I personally took water samples from the ditch which flows through the Wilbart Otte property. This was approximately 2500 feet below the Seymour Recycling Company operation. The analytical results showed a significant concentration of phenols obvious in the samples taken.

I try not to "cry wolf" at every issue of contention, however, I feel there is a serious cause for concern on this overall operation.

We will try to work with you on all matters of mutual concern. Please contact us at any time.

Very truly yours,

Robert Gatts
Public Health Sanitarian

RG/jr

Encl: Chemical list

STATE BOARD OF HEALTH
INDIANAPOLIS

C CE MEMORANDUM

DATE: April 28, 1980

TO: Seymour Recycling File

THRU:

FROM: Tim Kelley

SUBJECT: Observations of Cleanup by
O & H Materials on April 9, and 10, 1980

On April 9, Tim Kelley traveled to Seymour Recycling to make an on-site investigation of the clean-up procedures. After meeting with Jim Hunt an inspection was made of the perimeter of the site which had been trenched to catch the run-off from the site. The soil was observed as being very sandy, and it was determined by this inspector that the groundwater may not properly protected by the ditch. It may be necessary to seal the trench with a clay soil so that a better job of containment can be achieved. O & H Materials had set-up a treatment system involving collection tanks which were attached to an activated carbon filter. Water was being sucked up from the site and was transferred for treatment to this system. The organics found in the water should be treated adequately by this method but the residual metals are still going to be present. The treated waters are now being taken to the Seymour sewage treatment plant for further treatment.

Drum movement is being undertaken with IBM's material being segregated and placed into repack drums and was being shipped out by Chemical Waste Management for staging at their facility in Oakbrook, Illinois. Other drums were being restacked and segregated around the site during the two days of this investigation. On April 10, 1980, the DOD arrived to handle the disposal of containers of Picric acid. During the disposal it was discovered that the containers of Picric acid only contained bags with a light residue in them. These were handled by explosion a safe distance from the facility. After making these observations Mr. Kelley returned to his station in Indianapolis.

REGION V

June 23, 1981

Potential State Funding Requirements for CERCLA Clean up
of the Seymour Recycling Company, Seymour, Indiana

Bill Constantelos, Deputy Director
Air and Hazardous Materials Division

Michael B. Cook, Deputy Assistant Administrator
Office of Hazardous Emergency Response (WH-548)

This is a follow up to our recent conversation relative to state funding requirements at potential CERCLA sites. My discussion with you at the recent Superfund Coordinators meeting and discussions my staff has had regarding Congressman Albosta's recent inquiry on the Gratiot County Landfill project raise a question about the State of Indiana share of the Seymour, Indiana project. The State is considering identifying the Seymour Recycling Company (SRC) site as the number one priority for remedial action in Indiana. It should be noted that the city owned the SRC site while deposition of contaminants took place. The property was leased to SRC during the period of deposition and thus the city, although the owner of the property, was not in direct control of the day-to-day activity at the site. As you know SRC filed for bankruptcy and left the city with an environmentally contaminated site.

The State is aware of the need for state matching funds and has generally approached the Seymour Site with an anticipation of a 10% share. Although no firm commnitments have been made, substantial groundwork has been laid. If the determination is made that the Seymour project will require a 50% match, it is possible (probable) that the Midco site in the northwest corner of the state would become the State's number one priority remedial action. If we are unable to further address the Seymour site in the near future, we will be faced with more permanent security and closure costs such as an upgraded onsite treatment system and possibly a groundwater monitoring program. This work would be prudent to close out our existing 311 involvement at the site.

My concern relative to a strict interpretation of ownership as the sole criteria for determining the 50% funding share is that in many instances culpability is not attendant to ownership. Seymour is an example with the tennant being culpable. Recently, in the Detroit area a number of drums were illegaly dumped in various areas. Who is culpable there - are we to say the municipalities would be accountable for 50% of response costs?

The same goes for illegal disposal along highway right-of-ways. We must make every effort to assume a reasonable and fair posture on this issue. Relative to Seymour, it is important that we resolve the issue as soon as possible. This issue may impact two other sites with which I am peripherally familiar. Municipal ownership at the time of deposition is a consideration which should be throughly investigated at Love Canal and the Hollywood Landfill in Memphis.

Since the Indiana State Board of Health is considering Seymour as its top priority site for remedial work, we need to be able to advise the State as to whether or not the Seymour project will be on a 10% or 50% State share basis. Given the site ownership as described for Seymour, can you make a determination of the State's share for this project under Superfund? A prompt response is critical to initiating the State's Superfund program participation. I am prepared to discuss the details of this particular situation with yourself if you so desire.

Thank you for your attention on this matter.

REB:gmw:tape #6gw:6-17-81:Office of Superfund

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION V
230 SOUTH DEARBORN ST
CHICAGO, ILLINOIS 60604

REPLY TO ATTENTION OF:
5AHSF

DEC 0 7 1981

Ronald G. Blankenbaker, M.D.
Health Commissioner
Indiana State Board of Health
1330 West Michigan Street
Indianapolis, Indiana 46206

Dear Dr. Blankenbaker:

The United States Environmental Protection Agency (EPA) has published the National Interim Priority List of 115 hazardous waste sites in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), also known as "Superfund". These 115 sites have been designated as the currently known sites in most need of remedial action. Towards that end, EPA will provide funding to assist the States in pursuing engineering studies and cleanup actions at these sites.

The Seymour Recycling Company at Seymour, Indiana, has been designated as one of the interim 115 sites. As you know, a determination has been made that, since the property on which Seymour Recycling Company is located was municipally owned at the time of deposition of hazardous materials, the State share for proposed response actions will be at least 50 percent of response expenditures. In order for EPA to provide funding to assist in the cleanup at Seymour, it will be necessary for the State of Indiana to enter into an agreement with EPA. This agreement will specify the responsibilities of both EPA and the State of Indiana. The State of Indiana will be required to specify the amount of money it will allocate towards its 50 percent share, as well as a schedule by which that allocation will be made. We estimate that the total cleanup may ultimately exceed $10,000,000.00. The EPA looks forward to working with the State in pursuing the long-term cleanup activities at Seymour on a phased approach.

In an effort to expedite remedial actions at the site, the Agency has approved the expenditure of $350,000 of non-Superfund monies to prepare plans, specifications and bid packages to remove the remaining drums and tanks on the site. The funding will also cover a feasibility study to develop remedial options; evaluate them for technical feasibility, environmental impact and cost effectiveness; and prepare plans, specifications, and construction bid packages for the selected options for contaminated soil and ground water. These activities will be initiated under a separate agreement in the near future and can proceed concurrently with the development of the above referenced agreement regarding site cleanup. We look forward to working with you and your staff. If you have any questions please feel free to contact us.

Sincerely yours,

Valdas V. Adamkus

Valdas V. Adamkus
Regional Administrator

Kaw

—Ex. 3

STATE of INDIANA

ENVIRONMENTAL MANAGEMENT BOARD

1816

INDIANAPOLIS, 46206

1330 West Michigan Street
P.O. Box 1964

December 14, 1981

Ms. Anne M. Gorsuch
Administrator
United States Environmental Protection Agency
Waterside Mall
401 "M" Street, S.W.
Washington, D.C. 20460

SUBJECT: Indiana's Share of Clean-Up Costs of Seymour Recycling Under the Comprehensive Environmental Response, Compensation and Liability Act

Dear Ms. Gorsuch:

Last July, the Indiana Environmental Management Board learned that U.S. EPA had ruled that the Seymour Recycling facility in Indiana was owned by a political subdivision of the state, and that therefore the State of Indiana would have to match at least 50% of the costs of clean-up of that facility under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA, or Superfund). Our agency inquired of the basis of the decision last summer, and received an inconclusive reply (see enclosure) which suggested, however, that the question merited further review. Since then we have received a letter from Valdas V. Adamkus, Administrator of Region V, (see enclosure) informing us of the listing of Seymour Recycling on the Superfund priority list, and reiterating the determination that the State share for proposed response actions will be at least 50 percent of response expenditures. The Board continues to question the determination.

CERCLA, in Section 104(c)(3)(C), provides that the State will pay:

> "(i) 10 per centum of the costs of the remedial action, including all future maintenance, or (ii) at least 50 per centum or such greater amount as the President may determine appropriate, taking into account the degree of responsibility of the State or political subdivision, of any sums expended in response to a release at a facility that was owned at the time of any disposal of hazardous substances therein by the State or a political subdivision thereof." (Our emphasis added)

We think the determination of a "at least 50% match" for Seymour Recycling is questionable for several reasons:

(1) It is legally questionable whether the City of Seymour and its Board of Aviation Commissioners can be considered the owner of the facility under the Superfund meaning of that term. Seymour Recycling occupied the land under a lease with the Board of Aviation Commissioners. Under the lease, Seymour Recycling had the sole right to occupy and operate the business on the land. Under Section 101(20)(A) of CERCLA, "owner or operator" means:

> ". . . (iii) in the case of any abandoned facility, any person who owned, operated or otherwise controlled activities at such facility immediately prior to such abandonment. Such term does not include a person, who, without participating in the management of a vessel or facility, holds indicia of ownership primarily to protect his security interest in the vessel or facility;". (Emphasis added)

Further, the record does not show whether EPA inquired into the relationship of Seymour Recycling and the City of Seymour. It appears as though note was simply taken of the suit filed by EPA in May 1980 in Southern District of Indiana to abate the pollution at Seymour and to recover clean-up costs under Section 311 of the Clean Water Act. In that action the City of Seymour and the Board of Aviation Commissioners are joined as defendants, however, the complaint merely avers that the City and the Board of Aviation Commissioners leased the land to Seymour Recycling. The complaint does not charge any other relationship or responsibility of the City of Seymour and the Board of Aviation Commissioners.

(2) Section 104(c)(3)(C) of CERCLA requires that "the degree of responsibility of the State or political subdivision" be taken into account in determining the State match. There is nothing in the record that we are aware of to indicate that EPA considered the degree of responsibility of the City of Seymour and the Board of Aviation Commissioners.

We think the Congressional intent in attaching a greater response liability to the State-owned or local government-owned sites under Superfund was to deal with those landfill sites which were owned and operated by State or local governments. In those instances, it is clear local government had a degree of responsibility and assumed the risk of disposing of any hazardous substances at the facility. In the case of Seymour, the local government was leasing land to an entity which was not dealing with local government wastes or even industrial wastes from the area, but an entity which was "recycling" industrial wastes from all over the country.

Because we are approaching the point where the State and EPA must come to terms in connection with signing an agreement on remedial action at Seymour Recycling, we would appreciate a timely resolution of these questions.

Very truly yours,

Ralph C. Pickard,
Technical Secretary

PJH

Enclosures (2)

cc: Robert Orr, Governor
State of Indiana

Ronald G. Blankenbaker, M.D.
State Board of Health

RICHARD G. LUGAR
INDIANA

1115 DIRKSEN OFFICE BUILDING
WASHINGTON, D.C. 20510

INDIANA OFFICE:
EAST OHIO STREET, ROOM 447
INDIANAPOLIS, INDIANA 46204

United States Senate
WASHINGTON, D.C. 20510

COMMITTEES:
AGRICULTURE, NUTRITION, AND FORESTRY
BANKING, HOUSING, AND URBAN AFFAIRS
FOREIGN RELATIONS
SELECT COMMITTEE ON INTELLIGENCE

SW*
AG
A-100/Field
Reg 5
LC
AL/ST
AG
+ Card o:
.W.

(✓)

December 23, 1981

Ms. Ann Gorsuch
Administrator
Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Dear Ms. Gorsuch:

I hope this letter continues the constructive dialogue which was initiated by a recent meeting held between members of your staff and representatives of the Seymour, Indiana Chamber of Commerce.

At issue is the proportion of cost which is to be borne by the State of Indiana for the mitigation of a hazardous waste site located in Seymour, Indiana.

The state has long identified this site as an extremely serious threat to public safety, a judgment that was confirmed by the site's inclusion in EPA's recently released list of 115 high priority projects for the use of Superfund monies.

The state has no intentions of abdicating its responsibility in the mitigation of this site. It is fully prepared and indeed anxious to contribute to this project, to the extent possible. The state simply can not, however, shoulder 50% of a project whose cost exceeds $10 million.

The circumstances surrounding this site are somewhat unique. Unlike other cities, closely associated with their sites, the city of Seymour has in this instance, been a "distant landlord" that leased land to the Seymour Recycling Company without having any connection to the recycling facility.

The Comprehensive Environmental Response Compensation and Liability Act of 1980 (Superfund) plainly directs the state to participate in all cleanup activities. It requires the state to contribute no less than 10% and under certain circumstances, at least 50% of the total cost.

Specifically, the state must bear at least 50% of "any sums expended in response to a release at a facility that (it) owned at the time of any disposal of hazardous substances."

The law is not as precise however, in its definition of "facility". It defines facility as "(a) any building, structure, installation, equipment, pipe or pipeline... or (b) any site or area where a hazardous substance has been deposited stored or otherwise come to be located."

The careful use of "or" has the sense of " in lieu of." Where there is a recognizable structure, a pipeline, ditch, or treatment facility, then ownership applies to these. In the absence of such a structure the statute turns to the only identifiable object, the land itself.

Had the Congress intended the land to be indivisible from the facility for purposes of ownership, then "and" would have been used instead of "or."

In this case, there is a clearly identifiable facility, marked by a ditch, a fence and a few temporary buildings. If we accept that the statute intends the land to be divisible from the facility wherever possible, than Seymour is only responsible for 10% of the cleanup cost.

No other equally hazardous waste site which shares a similarly distant relationship with its municipality has so far been identified. As such an interpretation which favors Seymour would not force the admission of other similar claims.

Thank you for your continued interest in this important matter.

Sincerely,

Dick Lugar

Richard G. Lugar

RGL:akr

cc: State Senator Joe Corcoran
Paul Fleming
John Bottoroff

[illegible] to D. [illegible] for filing.

OFFICE OF THE GOVERNOR
INDIANAPOLIS, INDIANA 46204

ROBERT D. ORR
GOVERNOR

May 11, 1982

The Honorable Richard G. Lugar
United States Senator
1113 Dirksen Office Building
Washington, D.C. 20510

COPY

Dear Senator Lugar:

This office has investigated the various methods that might be open to us in order to provide a positive reply to your recent letter proposing "fast track" action at the Seymour Recycling site in Jackson County. Unfortunately, we have concluded that, at this time, the State of Indiana does not have funds available for immediate use at Seymour.

Fortunately, the close to $2 million from Section 311 of the Clean Water Act spent to date has established the situation at Seymour. We have been informed by EPA Region V that the recently completed study by Environmental Science and Engineering Incorporated, under EPA contract, has confirmed that there is no serious contamination problem at the Seymour Recycling site.

Everyone recognizes that there are over 60,000 drums still at the site that present a serious problem deserving of a permanent solution. The State of Indiana and Region V have taken positive steps toward resolving the problem.

The hazardous waste disposal tax enacted by the 1981 General Assembly will provide revenues to the state in 1983. These funds are committed to the purpose of providing match for Superfund dollars. As you know, Seymour Recycling will be the #1 priority for the use of these funds.

EPA Region V has just begun a study to develop a phased clean-up approach at Seymour. The State of Indiana will cooperate in the development of this prescription for a permanent solution. The phasing of the clean-up will enable the State to participate in steps as revenue accrues to the Hazardous Substance Emergency Response Trust Fund.

At the end of the current state fiscal year, July 1, 1982, we will review this situation. However, it is most unlikely that the State Board of Health will have an amount above $100,000 in unspent funds.

In conclusion, while it would be desirous to begin clean-up activities this year, no funds are available at this time. Consequently, we must continue with the existing plan which will begin to be implemented in 1983.

Sincerely,

ROBERT D. ORR
Governor

RDO:PB:jp

cc: Ronald G. Blankenbaker, M.D.
Commissioner, State Board of Health

Greater Seymour Chamber of Commerce
224 S. Chestnut Street
P.O. Box 312
Seymour, Indiana 47274
(81[illegible]2-3681

JUN 4 1982

June 3, 1982

Honorable Robert Orr
Governor of Indiana
State House
Indianapolis, Indiana 46204

Dear Governor Orr,

The people of Seymour and Jackson County have been suffering for several years with the problem of Seymour Recycling Corporation. The Congressional Hearing held in Seymour yesterday was an opportunity for us to seek more help from a Congressional delegation that believes the E.P.A. has interpreted the "Superfund legislation" differently than the legislative intent. Four Congresspersons were present and four representatives of Region V of the E.P.A. were here. We were most disappointed that you prohibited the State Board of Health from attending as their comments would have been beneficial.

To date, both of our U.S. Senators and all the Congressmen we have talked with agree that the "legislative intent" of the "Superfund" would not have made Seymour Recycling a 50-50 site. There is full agreement it should be a 90-10 site. It has become apparent that there are only four ways we are going to be able to solve our problem.

They are, first, get the interpretation changed in Washington. We have tried that, as your State Board of Health representative, David Lamm, delivered a letter to Washington D.C. in December of 1981, concerning that subject. With him were Senator Corcoran, Paul Fleming, and myself. E.P.A. responsded in the negative.

The second would be to hope the generators come up with a plan that will be acceptable to the E.P.A. and to collect enough money to bare a major portion of the burden. While we hope for the best, it is not likely to come about in the near future.

The third alternative is that the State of Indiana come up with 50% of the funds. It is clear that would be the least acceptable method for Indiana, but still acceptable to the people of Seymour and Jackson County.

The last alternative, and I believe the best, is to ask our Congressional delegation to tack on an amendment to a bill in Congress which has bipartisan support which would change or clarify the wording of the "Superfund" legislation. Senator Corcoran and I have agreed on this approach and will proceed with vigor.

We respectfully request your support of our efforts toward this bipartisan approach to solving a bipartisan problem.

I have enclosed a copy of my statement at the Congressional Hearing and an editorial from today's Brownstown Banner. Let's all work together to solve this horrible problem.

I am looking forward to your response and cooperation.

Sincerely,

John D. Bottorff
Executive Vice President

JDB:gls

cc: Senator Joe Corcoran
Dr. Joseph Black
Mayor Chris Moritz

Enclosures

bcc: Ronald G. Blankenbaker, M.D.
State Health Commissioner

~~R. Packard~~

For info

OFFICE OF THE GOVERNOR
INDIANAPOLIS, INDIANA 46204

ROBERT D. ORR
GOVERNOR

June 17, 1982

Mr. John D. Bottorff
Executive Vice-President
Greater Seymour Chamber of Commerce
P. O. Box 312
Seymour, Indiana 47274

COPY

Dear Mr. Bottorff:

This office shares your concern regarding the Seymour Recycling Corporation problem; however, we stand by our action of suggesting to the Board of Health that they not participate in the recent hearing. To have participated in politically motivated hearings would not have contributed to solving the Seymour Recycling problem.

The State of Indiana continues to make Seymour Recycling its number one clean up priority. Fortunately, the close to $2 million from Section 311 of the Clean Water Act, spent to date, has stabilized the situation at Seymour. We have been informed by Region V EPA and the State Board of Health, that there is currently no serious contamination problem.

Everyone recognizes that the over 60,000 drums still at Seymour are unacceptable. The State, in cooperation with EPA, has continually worked toward a permanent solution.

The hazardous waste disposal tax enacted by the 1981 General Assembly will provide revenues to the State in 1983. EPA Region V is just beginning a study to develop a phased clean up approach. This will allow the State to participate in phases as revenues are collected.

The Department of Justice and EPA, as you mentioned in your letter, supposedly are negotiating with the generators on a plan to be partially financed by them. This would, of course, lessen the financial burden facing the State.

We would welcome any change in policy or law which would reduce the State's financial obligation. Unfortunately, until the EPA study is completed no reliable estimates of the cost of clean up exist.

Seymour Recycling will be cleaned up. The State is committed to this goal. We will continue on the course now underway.

Should reasonable alternative methods be suggested, we will consider them at any time.

Sincerely,

ROBERT D. ORR
Governor

RDO:PB:jm

cc: Senator Joseph Corcoran
Mayor Chris Moritz
Dr. Joseph Black

Lack Of Evidence Of Offenses Allowed SRC To Stay In Business

By TINA VECERA

Lack of evidence of any laws being broken was the reason it took nearly 10 years to shut down the now-abandoned toxic chemical waste site, Seymour Recycling Corporation on Freeman Field, according to county sanitarian Bob Gatte.

The site has received national attention as a threat to health and is on a priority list to be considered for federal funds for cleanup. A congressional hearing last month sought to determine why cleanup funds have not become available.

Gatte, who has been sanitarian since September, 1969, said his first involvement with the site was in the early 1970's.

At that time, he said, the chemical drum collection at the site, now estimated at 60,000, was in its infancy.

He said he believes it was between 1973 and 1975 that the increasing number of drums on the site became a noticeable problem.

However, he credits the state Board of Health with determining that a problem existed at that point and says the situation all along has been the state's responsibility.

The county had made inspections since the early 1970's and the county and state often were unable to identify whether the inventory at the site had changed, he said. This made it difficult to gather evidence, Gatte said.

Gatte talked about the county health department's involvement with the waste site in an inverview after he wrote a letter to the editor which was printed in The Banner on Wednesday, June 9.

Gatte spoke in the letter of dangers connected with the site which he later said were not actual incidents but only "possibilities" which he foresees.

The county health department's director, Dr. Joseph M. Black of Seymour has been kept informed of activity at the site, but the county left it up to the state to take any action, Gatte said.

Asked why it took such a long time to gather evidence, Gatte said the departments did not keep track of what was at the site because the state had "staff limitations."

Inventory of the site required knowing what chemicals were there and what was in the barrels, he said. Chemicals were mixed by the site operators and barrels moved, confusing the department, he said.

He said the U.S. Environmental Protection Agency was aware of the SRC situation but would not act without evidence that problems existed.

There was also a tendency of the health department, he said, to be lenient when it saw the company representatives being cooperative.

Seymour Recycling was formed in 1976 after being operated several years as the chemical division of Seymour Manufacturing Company. Willis Hobson of Columbus, now president of Seymour Manufacturing, was manager of the chemical division and a director of both corporations.

Kenneth Goodwin, also formerly of Columbus, operated SRC from late 1975 to 1978 when it was taken over by a Hamilton, Ohio, man, William Kovacs.

"Maybe there's been too much leniency," Gatte said about enforcement of health regulations at the site.

Also, he said, as evidence was gathered, the corporations had to be advised of the evidence and allowed to take corrective steps.

Although conditions at the site were "brought up at [health] board meetings," Gatte said surveillance was left up to him through inspections and his cooperation with the state.

He said little could be found in department board minutes about the SRC situation.

He later said he did not recall being asked to give reports to the county health board about it, so he assumed SRC was not discussed in meetings.

Through the years there was a "constant threat" from the state health officials toward the persons operating the site, he said.

Gatte said corporation officials were "cooperative" in allowing inspections until the later years, when inspections came to be viewed as "harassment."

Responding to questions about purpose and policy, Gatte said he believes the local health department should continue with its present posture, which treats the state as the controlling agency.

For this reason, he said, he has no objection to test results from the Seymour Recycling site being sent to the state without copies also being sent to his office at the same time.

The county would still need to contact the state before taking any action, he said. The state communicates with the county on test results, he said.

Sometimes observations, analytical reports and sample results are not submitted by the EPA to the health department as soon as they are complete, Gatte said. He added he did not approve of that.

Gatte reported a carbon filter through which waste water runoff is discharged from SRC into Seymour sewage treatment plant was no longer working adequately. He said he knew it was inadequate through communications with Gary Hukill of the Seymour sewage treatment plant, but Hukill said he has not spoken with Gatte about the situation lately.

Hukill said he has known since last fall the filter is inadequate because of a report from EPA.

Hukill also said he does not know of "high chemical counts" which Gatte said Hukill had told him about.

Hukill said testing facilities do not exist at the plant for the kinds of chemicals which would come from the SRC site.

Although the sewage plant may begin implementing a "pre-treatment program" for industrial wastes in the next few years, Hukill said, the program would not help much with treatment of waste coming into the sewer system from SRC.

STATE BOARD OF HEALTH
INDIANAPOLIS

FF' MEMORANDUM

DATE: July 28, 1982

O: Ronald G. Blankenbaker, M.D.
State Health Commissioner

THRU: Ralph C. Pickard
David D. Lamm
Guinn Doyle

ROM: James M. Hunt
Division of Land Pollution Control

UBJECT: Status of Seymour Recycling

In a letter from Governor Orr to the Greater Seymour Chamber of Commerce, dated June 17, 1982, a statement was made that the work done at Seymour Recycling had "stabilized the situation" and that the Governor's Office had been informed by the Indiana State Board of Health "that there is currently no serious contamination problem."

I find these statements particularly disturbing in light of the fact that numerous inspections (my most recent being on May 21, 1982) have shown that this site is anything but "stable." Extensive deterioration of drums has resulted in discharges to the environment at numerous locations on-site. In addition to the continuing contamination of the underlying groundwater, waste has not been segregated by compatible types and the accelerated failure of the drums increases the likelihood of an adverse chemical reaction causing a fire or explosion.

To contend "that there is currently no serious contamination problem" displays a disregard for the gravity of the situation at Seymour Recycling. The fact is the site represents the deterioration and leakage of 55,000 drums of buried, unidentified hazardous wastes on a 13-acre site with sandy soil and a very shallow aquifer. The aquifer is utilized as a drinking water supply within one-half mile of the site.

The site is separated from the Seymour Sanitary Sewer System by a carbon treatment facility which is currently not functioning and which, if it were functional, is not capable of protecting the municipal treatment plant from being upset by a sizable discharge of toxic waste. It is difficult to interpret this situation as being stable.

Statements such as those made by the Governor's Office do not encourage the general public to trust this agency (and other state agencies) with respect to regulating the siting and management of hazardous waste facilities. I would strongly recommend that the Governor's Office be advised that their information was erroneous so that they may have an opportunity to reevaluate the State's position.

JMH/tw
cc: Ms. Karen Evans

STATE OF INDIANA
ENVIRONMENTAL MANAGEMENT BOARD
INDIANAPOLIS, 46206
1330 West Michigan Street
P.O. Box 1964

AUG 2 3 1982

TO: Patrick W. Berger
Administrative Assistant

FROM: Ronald G. Blankenbaker, M. D.
State Health Commissioner

SUBJECT: Seymour Recycling

Recent inspections and sampling at the Seymour Recycling Facility by the Board of Health staff have shown an increased risk to the health and safety of the citizens of Seymour. The Indiana State Board of Health has been in regular communication with your office since the discovery of this increased perceived risk. On that basis, I have listed several observations.

Region V Environmental Protection Agency (EPA) met with technically oriented representatives from IBM, Dupont, and General Motors in Washington, D.C., on Tuesday, August 3, 1982. The purpose of the meeting was for this generators group to present a technical clean-up plan to EPA. The plan submitted was designed by Chemical Waste Management. The plan describes removal of the material in the 60,000 drums, removal of the materials in the 100 bulk tanks, but not the tanks themselves, and removal of contaminated soil "hot spots". The buildings and bulk tanks would remain on-site and there is no provision for surface water confinement, carbon treatment unit nor clay cap. There would be no extent of contamination sampling of the soil after removal of the barrels. In return for their above-ground clean-up, the ten to twelve (10-12) companies want complete release from all liability. A cost estimate for this effort is ten million dollars ($10,000,000). The wisdom of releasing the generators from all liability is questionable until resolution of the extent of groundwater and subsurface contamination has been determined.

The Chemical Waste Management clean-up plan is unacceptable to both Region V EPA staff and Indiana State Board of Health (ISBH). The failure of EPA/generator negotiations at such a mature point in the negotiations is not a good sign. It indicates that the generators are either unwilling to support the effort at this time or that EPA has been unsuccessful in communicating the legal requirements to the generators. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) program is so designed that, should these negotiations for a clean-up plan fail, the Department of Justice (DOJ) assumes responsibility for collection of pro rata sums of money from the generators. The Department of Justice (DOJ) has already planned a series of meetings in September with the generators to explain to them what amounts they will be proposing to collect from each company based on the gross amounts they are charged with transporting to Seymour Recycling.

There is some concern as to how successful the Department of Justice (DOJ) will be in collecting money from the generators, based on their performance thus far. ISBH was at one point, prior to the federal suit against Seymour Recycling, negotiating with the generators and had some very strong assurances of clean-up assistance from many of the companies. The federal suit, however, froze these negotiations. The Department of Justice and the Environmental Protection Agency have, quite frankly, stymied progress and obviously will make negotiations more complicated at best.

Presently, Federal and State statutes require that State match money be available or promised prior to the signing of an agreement. Recompensation to both the State and the Federal Governments could occur through legal provisions in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. EPA, however, may attempt to disallow compensation to the State through an article in the State Contract which is a document required by statute and which both parties must sign. Washington EPA is setting policy as to what constitutes an assurance of money to be furnished by the State.

The Department of Justice has asked the State to attend a meeting on August 31, to discuss a "Draft Covenant Not to Sue." Presently, the State has received no indication, that should the State sign such a convenant, it will receive specific assurances in return. This provision deserves careful scrutiny. As incentive to sign, the State must require such assurances as equal reimbursement from claims against any third party, and legal negotiating power with respect to how clean is clean.

With the above as background information, the following should be seriously considered:

-- There is a risk of both fire and explosion from the potential mixing of chemicals, specifically lab chemicals that could result in a catastrophic event;

-- There is a risk of sabotage from what is perceived to be a lack of surveillance and easy access to the site and therefore a lack of protection to the public in this regard;

-- There is an additional unknown risk associated with the highly toxic chemicals segregated in the southwest corner of the site;

-- EPA has been extremely cautious in proceeding on the implementation of CERCLA to protect the health and safety of the citizens of Seymour, Indiana.

With the above in mind, it is therefore recommended that EPA recognize a 10% State match at Seymour Recycling or undertake immediate removal actions with 100% Federal funding.

The State recognizes that both the Department of Justice and the United States Environmental Protection Agency have been slow in accepting their responsibility toward implementing and enforcing the Comprehensive Environmental Response, Compensation, and Liability Act in the following ways:

(a) That both agencies have been slow to apply themselves adequately to the concerns of this well recognized abandoned hazardous waste facility.

(b) That the Department of Justice has moved slowly in the prosecution of the Seymour generators as the responsible parties in order to clean up Seymour Recycling and to protect the citizens of Seymour, Indiana.

(c) That the federal suit against Seymour Recycling has prevented the State from obtaining agreements for waste removal and has prevented the state from making progress toward the clean-up of Seymour Recycling.

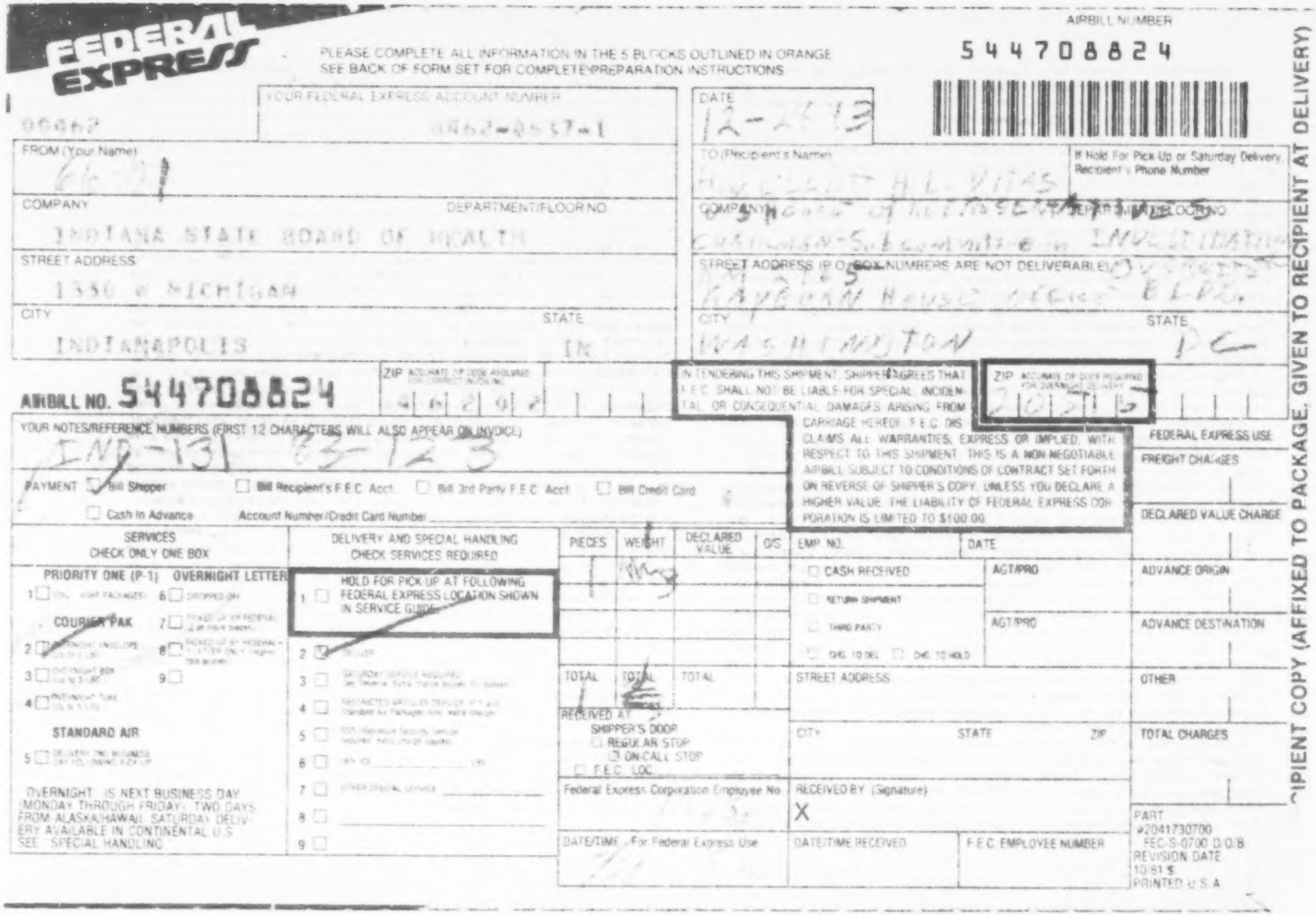
(d) That the Department of Justice has not properly communicated with the State Attorney General nor the Indiana State Board of Health with regard to generator negotiations nor any other Indiana State agency.

It is therefore recommended that the State consider undertaking its own suit against the generators:

-- That the Indiana Attorney General work with the Indiana State Board of Health in reopening negotiations with the generators;

-- That the Governor's Office explore any and all avenues to financially support a quick clean-up of Seymour Recycling;

-- That the Indiana Attorney General evaluate what actions are necessary with regard to keeping the Department of Justice informed.



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CITY: INDIANAPOLIS

STATE: IN

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Chairman-Subcommittee on Investigation

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December 27, 1982

Ronald G. Blankenbaker, M.D.
State Health Commissioner

Ralph C. Pickard
David D. Lamm
Karen E. Evans

Jim Knoy
Division of Land Pollution Control

Surface Water Treatment System at Seymour Recycling Corporation

The Seymour Recycling pretreatment system that the State and U.S. EPA jointly funded a modification for in August of 1982, appears to be malfunctioning, and several features were not installed during that modification action which the State had assumed would be installed. Following is a list of the problems associated with that system:

1. The system requires constant back-flushing. When back-flushed, the system runs at approximately 20 gpm. Within a few hours, however, the system drops to approximately 5 gpm, well below the design capacity. Freeman Municipal Airport personnel, who maintain the system, have spent considerable more time on this project than what they had previously projected.
2. No drain connections were installed to facilitate draining the system to prevent freeze up. Recently, the pipes had to be cut to accomplish draining the system.
3. No oil containment devices were installed to prevent oils from entering the system. Such oils may contain PCBs which might not be removed through the filter. In addition, the oils also might be responsible for some of the plugging up of some of the system previously mentioned.

It might be prudent for this agency to contact the Attorney General's Office to determine whether or not payment for the filter work has been authorized. These concerns should also be expressed to the U.S. EPA.

JKnoy/tw
cc: Mr. Jim Hunt
tw 4040m 12/27/82

STATE BOARD OF HEALTH

INDIANAPOLIS

ICE MEMORANDUM

DATE: January 26, 1983

THRU:

Karen E. Evans KEE 1/26/83
David D. Lamm DDL 1/26/83
Ralph C. Pickard 1/26

Ronald G. Blankenbaker, M.D.
State Health Commissioner

M:

Jim Knoy
Division of Land Pollution Control

JECT:

Spill of Hazardous Wastes from Seymour Recycling

On January 25, 1982, a Chemical Waste Management (CWM) truck containing wastes from the Seymour cleanup had a mechanical failure resulting in the loss of 20 cubic feet of crushed drums. Crushed drums often contain residues. In this case, a limited analysis was made on the waste prior to shipment with the following results:

2,4-D	770 ppm
ZN	56 ppm
Cl	9160 ppm
Phenol	1560 ppm
Organic	less than 10 ppm if present
PCB	less than 1 ppm if present

The following problems are associated with this spill:

1. CWM did not notify the Indiana State Board of Health of the spill.

2. The CWM truck was not tarped.

3. CWM allegedly did not notify the responding authorities of the hazardous nature of the spilled material until asked approximately one hour after the responders were on the scene.

4. Three state highway employees and one wrecker company employee assisted in the cleanup, but allegedly were not advised of the hazards present nor were offered protective equipment.

5. The disposal site, the Evergreen Landfill in Ohio, was not on the list of disposal sites listed in the Consent Decree.

I am currently requesting a more detailed analysis of the waste and am assembling other information for a later report. The detailed analysis results will be used to assess the possible effects on the personnel who assisted with the cleanup.

JKnoy/tw

Chemical Waste Management, Inc.
Environmental Remedial Action Division
150 W. 137th Street
Riverdale, Illinois 60627
312/841-8600

Rec 2/22
JAK

FEB 21 3 28 PM '83
DIV. OF LAND POLLUTION CONTROL
STATE BOARD OF HEALTH

February 16, 1983

Indiana State Board of Health
1330 West Michigan Street
P.O. Box 1964
Indianapolis, Indiana 46206

ATTN: Jim Knoy

Dear Mr. Knoy:

This letter is to formally advise you of the information that I have been made aware of concerning the truck accident involving waste materials from the Seymour facility.

The accident occurred on January 25, 1983 at approximately 1:15 P.M. at the intersection of US 40 and Interstate 70, Richmond, Indiana. The incident involved a truck and trailer owned and operated by Chemical Waste Management, Alsip, Illinois. Due to mechanical difficulties with the existing tractor, a different tractor had been hooked up to the trailer containing crushed drums. During this operation the PTO, or the unit which is used to raise the bed of the trailer, became engaged. This caused the trailer body to raise while the tractor trailer was moving. This eventually resulted in the trailer body elevating to the point where it struck the I-70 overpass and tipped over on its right side releasing part of the contents.

After the accident the county sheriff's department, the state police, as well as another CWM truck, arrived at the scene. From information available on the manifest of the second truck, the authorities were informed that the material being transported was a hazardous waste. Clean up operations were immediately started by transferring the spilled waste and waste remaining in the truck to an empty trailer. All visible contamination and crushed drums were removed from the scene of the accident.

On January 27, 1983, the scene of the accident was inspected by an ENRAC Project Manager to insure that all waste materials had been properly collected. At that time, the site appeared clean with no visible waste remaining at the site.

As far as notification of the proper authorities, the driver had the distinct impression that notification would be handled by the state police or the sheriff's department. As we discussed, to eliminate the possibility that the Board of Health or other appropriate parties are not notified, our dispatch office will immediately notify the proper state and federal authorities regardless of any communication or agreements that transpire at the scene of the incident. This will insure that the proper authorities are immediately notified.

I have enclosed the analytical results from samples taken of the remaining waste in the trailer. I would like to emphasize, that due to the sample taken, in our opinion, this sample is "worst case" of the material remaining in the truck.

This accident was caused by a very unusual set of circumstances. Since that time we have taken every precaution to insure that accidents of this nature will not occur again.

We appreciate the assistance we received during this incident. If there are any questions concerning this information, please feel free to contact me.

Sincerely,

Michael J McKinney

Michael McKinney
General Manager, ENRAC

MM:mah

PROFILE:
SEYMOUR CLEANUP
SEYMOUR, IN
SOURCE: ENC SITE: SEY
MATERIAL FROM CRUSHED DRUMS

02/03/83

SPECIAL WASTE ANALYSIS REPORT

LABORATORY: Chemical Waste Management Technical Center

PROFILE SHEET RECEIVED ON: ______ REPRESENTATIVE SAMPLE RECEIVED ON: ______

CERTIFICATE OF REP. SAMPLE RECEIVED: ______ SAMPLE TAKEN: ______

PROPOSED TREATMENT/DISPOSAL FACILITY: ______

THE ANALYSES BELOW REPORTED WERE SELECTED BY ME, BASED UPON THE GENERATOR'S REPRESENTATIONS IN THE PROFILE SHEET AND ANY APPLICABLE WASTE ANALYSIS PLAN ESTABLISHED BY THE PROPOSED FACILITY FOR WASTE OF THIS TYPE. ANALYSES REQUIRED BY A WASTE ANALYSIS PLAN ARE INDICATED BY AN ASTERISK (*).

DATE OF ANALYSIS: 2-9-83 LAB MANAGER: John W. Klopesin

Test	As Received	Leachate	Analyst Initials	Test	As Received	Leachate	Analyst Initials
Specific Gravity							
pH 10% SOLUTION	8.6						
Acidity, % as							
Alkalinity, % as				Phenols, mg/l	437.		
C O D, mg/l				Cyanides, as CN, Total, mg/l	<10.0		
B O D$_5$, mg/l				Cyanides, as CN, Free, mg/l			
Total Solids @ 105°C	86.44%						
Total Dissolved Solids, mg/l				Nitrogen, Ammonia, as N, mg/l			
Total Suspended Solids, mg/l				Nitrogen, Organic, as N, mg/l			
Residue on Evaporation @ 180°C				Total Kjeldahl Nitrogen, as N, mg/l			
Flash Point, F°				Total Alkalinity (P), as CaCO$_3$, mg/l			
Ash Content, on ignition	82.10%			Total Alkalinity (M), as CaCO$_3$, mg/l			
Heating Value, BTU/lb				Total Hardness, as CaCO$_3$, mg/l			
"Acid Scrub," gNaOH/g				Calcium Hardness, as CaCO$_3$, mg/l			
				Magnesium Hardness, as CaCO$_3$, mg/l		–	
Arsenic, as AS, mg/l	<0.05						
Barium, as Ba, mg/l	402.						
Boron, as B, mg/l				Oil and Grease, mg/l			
Cadmium, as Cd, mg/l	2.52						
Chromium, Total as Cr, mg/l	81.4						
Hexavalent Chromium @ Cr, mg/l				Aldrin, mg/l			
Copper, as Cu, mg/l	82.3			Chlordane, mg/l			
Iron, Total as Fe, mg/l				DDT's, mg/l			
Iron, dissolved, as Fe, mg/l				Dieldrin, mg/l			
Lead, as Pb, mg/l	253.			Endrin, mg/l			
Manganese, as Mn, mg/l				Heptachlor, mg/l			
Magnesium, as Mg, mg/l				Lindane, mg/l			
Mercury, as Hg, mg/l	0.64			Methoxychlor, mg/l			
Nickel, as Ni, mg/l	27.1			Toxaphene, mg/l			
Selenium, as Se, mg/l	3.57			Parathion, mg/l			
Silver, as Ag, mg/l	0.95			2, 4, D, mg/l			
Zinc, as Zn, mg/l	253.			2, 4, 5, TP (Silvex), mg/l			
				PCB's, mg/l			
Bicarbonates, as HCO$_3$, mg/l				Organics: See attached			
Carbonates, as CO$_3$, mg/l							
Chlorides, as Cl, mg/l							
Fluorides, as F, mg/l							
Nitrate, as NO$_3$, mg/l							
Nitrite, as NO$_2$, mg/l							
Phosphate, as P, mg/l							
Sulfate, as SO$_4$, mg/l							
Sulfides, as S, mg/l Dissolved	<2.0						

FORM WMI-52 (Rev. 11-3-80)
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This report has been prepared for the exclusive use and benefit of Chemical Waste Management . No representation concerning sample validity or analytical accuracy or completeness is hereby made to any other person receiving this report.

SAMPLE IDENTIFICATION: Material from Crushed Drums

TECHNICAL CENTER SAMPLE NUMBER: #0742

	VOLATILE ORGANICS	CONCENTRATION (UG/L)	DETECTION LIMIT (UG/L)
1V.	ACROLEIN	BDL	100
2V.	ACRYLONITRILE	BDL	100
3V.	BENZENE	6200	10
4V.	BIS (CHLOROMETHYL) ETHER	BDL	10
5V.	BROMOFORM	BDL	10
6V.	CARBON TETRACHLORIDE	BDL	10
7V.	CHLOROBENZENE	1900	10
8V.	CHLORODIBROMOMETHANE	BDL	10
9V.	CHLOROETHANE	BDL	10
10V.	2-CHLOROETHYLVINYL ETHER	BDL	10
11V.	CHLOROFORM	2100	10
12V.	DICHLOROBROMOMETHANE	BDL	10
13	DICHLORODIFLUOROMETHANE	BDL	10
14V.	1,1-DICHLOROETHANE	290	10
15V.	1,2-DICHLOROETHANE	9700	10
16V.	1,1-DICHLOROETHYLENE	68	10
17V.	1,2-DICHLOROPROPANE	BDL	10
18V.	1,3-DICHLOROPROPYLENE	740	10
19V.	ETHYLBENZENE	16000	10
20V.	METHYL BROMIDE	BDL	10
21V.	METHYL CHLORIDE	BDL	10
22V.	METHYLENE CHLORIDE	1800	10
23V.	1,1,2,2-TETRACHLOROETHANE	BDL	10
24V.	TETRACHLOROETHYLENE	7200	10
25V.	TOLUENE	17000	10
26V.	1,2-TRANS-DICHLOROETHYLENE	64	10
27V.	1,1,1-TRICHLOROETHANE	17000	10
28V.	1,1,2-TRICHLOROETHANE	BDL	10
29V.	TRICHLOROETHYLENE	27000	10
30V.	TRICHLOROFLUOROMETHANE	BDL	10
31V.	VINYL CHLORIDE	BDL	10

BDL=BELOW DETECTION LIMIT.

DETECTION LIMIT IS MINIMUM DETECTION LIMIT REQUIRED BY EPA METHOD 624

SAMPLE IDENTIFICATION: Material from Crushed Drums

TECHNICAL CENTER SAMPLE NUMBER: #0742

	BASE-NEUTRAL EXTRACTABLE ORGANICS	CONCENTRATION (UG/L)	DETECTION LIMIT (UG/L)
1B.	ACENAPHTHENE	11200	10
2B.	ACENAPHTHYLENE	BDL	10
3B.	ANTHRACENE	1800	10
4B.	BENZIDINE	BDL	10
5B.	BENZO (A) ANTHRACENE	BDL	10
6B.	BENZO (A) PYRENE	BDL	10
7B.	3,4-BENZOFLUORANTHENE	BDL	10
8B.	BENZO (GHI) PERYLENE	BDL	25
9B.	BENZO (K) FLUORANTHENE	BDL	10
0B.	BIS (2-CHLOROETHOXY) METHANE	BDL	10
1B.	BIS (2-CHLOROETHYL) ETHER	BDL	10
2B	BIS (2-CHLOROISOPROPYL) ETHER	BDL	10
3B.	BIS (2-ETHYLHEXYL) PHTHALATE	BDL	10
14B.	4-BROMOPHENYL PHENYL ETHER	BDL	10
15B.	BUTYL BENZYL PHTHALATE	BDL	10
16B.	2-CHLORONAPHTHALENE	BDL	10
17B.	4-CHLOROPHENYL PHENYL ETHER	BDL	10
18B.	CHRYSENE	BDL	10
19B.	DIBENZO (A,H) ANTHRACENE	BDL	25
20B.	1,2-DICHLOROBENZENE	25000	10
21B.	1,3-DICHLOROBENZENE	BDL	10
22B.	1,4-DICHLOROBENZENE	10300	10
23B.	3,3'-DICHLOROBENZIDINE	BDL	10
24B.	DIETHYL PHTHALATE	BDL	10
25B.	DIMETHYL PHTHALATE	BDL	10
26B.	DI-N-BUTYL PHTHALATE	BDL	10
27B.	2,4-DINITROTOLUENE	BDL	10
28B.	2,6-DINITROTOLUENE	BDL	10
29B.	DI-N-OCTYL PHTHALATE	BDL	10
30B.	1,2-DIPHENYLHYDRAZINE	BDL	10
31B.	FLUORANTHENE	7300	10

BDL=BELOW DETECTION LIMIT

DETECTION LIMIT IS MINIMUM DETECTION LIMIT REQUIRED BY EPA METHOD 625

SAMPLE IDENTIFICATION: Material from Crushed Drums

TECHNICAL CENTER SAMPLE NUMBER: #0742

	BASE-NEUTRAL EXTRACTABLE ORGANICS (continued)	CONCENTRATION (UG/L)	DETECTION LIMIT (UG/L)
32B.	FLUORENE	BDL	10
33B.	HEXACHLOROBENZENE	220	10
34B.	HEXACHLOROBUTADIENE	BDL	10
35B.	HEXACHLOROCYCLOPENTADIENE	1500	10
36B.	HEXACHLOROETHANE	BDL	10
37B.	INDENO (1,2,3-CD) PYRENE	BDL	10
38B.	ISOPHORONE	12000	25
39B.	NAPHTHALENE	4500	10
40B.	NITROBENZENE	BDL	10
41B.	N-NITROSODIMETHYLAMINE	BDL	10
42B.	N-NITROSODI-N-PROPYLAMINE	BDL	10
43B	N-NITROSODIPHENYLAMINE	BDL	10
44B.	PHENANTHRENE	17000	10
45B.	PYRENE	7600	10
46B.	1,2,4-TRICHLOROBENZENE	94	10

BDL=BELOW DETECTION LIMIT

DETECTION LIMIT IS MINIMUM DETECTION LIMIT REQUIRED BY EPA METHOD 625

SAMPLE IDENTIFICATION: Material from Crushed Drums

TECHNICAL CENTER SAMPLE NUMBER: #0742

	PESTICIDES/PCB'S	CONCENTRATION (UG/L)	DETECTION LIMIT (UG/L)
1P.	ALDRIN	BDL	10
2P.	ALPHA-BHC	BDL	10
3P.	BETA-BHC	BDL	10
4P.	GAMMA-BHC	BDL	10
5P.	DELTA-BHC	BDL	10
6P.	CHLORDANE	BDL	10
7P.	4,4'-DDT	6400	10
8P.	4,4'-DDE	BDL	10
9P.	4,4'-DDD	BDL	10
10P.	DIELDRIN	BDL	10
11P.	ALPHA-ENDOSULFAN	BDL	10
2P.	BETA-ENDOSULFAN	BDL	10
3P.	ENDOSULFAN SULFATE	BDL	10
4P.	ENDRIN	BDL	10
15P.	ENDRIN ALDEHYDE	BDL	10
16P.	HEPTACHLOR	BDL	10
17P.	HEPTACHLOR EPOXIDE	BDL	10
18P.	PCB-1242	BDL	10
19P.	PCB-1254	BDL	10
20P.	PCB-1221	BDL	10
21P.	PCB-1232	BDL	10
22P.	PCB-1248	BDL	10
23P.	PCB-1260	BDL	10
24P.	PCB-1016	BDL	10
25P.	TOXAPHENE	BDL	10

BDL=BELOW DETECTION LIMIT

DETECTION LIMIT IS MINIMUM DETECTION LIMIT REQUIRED BY EPA METHOD 625

SAMPLE IDENTIFICATION: Material from Crushed Drums

TECHNICAL CENTER SAMPLE NUMBER: #0742

	ACID EXTRACTABLE ORGANICS	CONCENTRATION (UG/L)	DETECTION LIMIT (UG/L)
1A.	2-CHLOROPHENOL	BDL	25
2A.	2,4-DICHLOROPHENOL	BDL	25
3A.	2,4-DIMETHYLPHENOL	21000	25
4A.	4,6-DINITRO-O-CRESOL	BDL	250
5A.	2,4-DINITROPHENOL	BDL	250
6A.	2-NITROPHENOL	BDL	25
7A.	4-NITROPHENOL	BDL	25
8A.	P-CHLORO-M-CRESOL	BDL	25
9A.	PENTACHLOROPHENOL	BDL	25
10A.	PHENOL	122000	25
11A	2,4,6-TRICHLOROPHENOL	BDL	25

BDL=BELOW DETECTION LIMIT

DETECTION LIMIT IS MINIMUM DETECTION LIMIT REQUIRED BY EPA METHOD 625

STATE BOARD OF HEALTH

INDIANAPOLIS

OFFICE MEMORANDUM

DATE: June 6, 1983

TO: Seymour Recycling File

THRU: JAK for KEE
Karen E. Evans
James M. Hunt
David D. Lamm

FROM: JAK 6/7/3
James A. Knoy
Division of Land Pollution Control

SUBJECT: Seymour Recycling Inspection

On June 2, 1983, I inspected Seymour Recycling with Mr. Terry Gray. We sampled the influent and effluent of the surface water treatment system. Mr. Ken Kavannagh, Johnson County Health Department, handed me a map (attached) of the alleged burial area for explosives in glass containers. Messrs. Gray, Kavannagh, and I inspected the site.

Personnel from Ecology and Environment (E & E) were removing the off-site monitoring wells that had been installed in 1980 by O & H Materials. The E & E well removal procedures included breaking out the bottom of the wells, filling the casings with concrete, removing the well casings, and then finally covering the well location with bentonite clay.

A meeting was held with Chemical Waste Management (CWM), U.S. EPA, County Health, and Trustee officials. Mr. Mike McKinney, CWM, stated that the Bunker/Laboratory area should be cleared out by Saturday. By the following week, the only unstaged drums should be those in the northcentral and northwest portions of the facility. Many of the drums in the northwest area are empty.

The Evergreen Landfill approval and solidification of flammable solids approval letters still have not been received by CWM. Mr. McKinney said that the trench dug to facilitate the surface water movement to the collection pond was working satisfactorily.

Mr. McKinney said that he has ordered carbon to replace the surface water treatment system carbon. He anticipated that the carbon will arrive in a matter of days. Mr. McKinney mentioned that a representative from General Motors from Detroit visited the site the previous week as did IBM. Cummins Engines will send representatives to the site on June 16th.

Mr. McKinney stated that he and Ms. Beverly Kush, U.S. EPA, had on June 1, 1983, discussed the new findings that much of the bulk liquid on-site contained sizable levels of PCBs. Mr. McKinney will attempt to use on-site tanks, other than the normal bulking tanks for storage. I again requested a copy of the air monitoring report. A copy of CWM's minutes are attached to this memo. Mr. McKinney requested that our meetings be held weekly.

JAK/tw
Attachment
cc: Mr. Terry Gray

STATE BOARD OF HEALTH

INDIANAPOLIS

FICE MEMORANDUM

DATE: June 15, 1983

TO: Seymour Recycling File

THRU: Karen Evans LEE 7/6/83
James Hunt
David D. Lamm 7/11/83

FROM: JAK 7/6/3
James A. Knoy
Division of Land Pollution Control

SUBJECT: Seymour Recycling Inspection

On June 9, 1983, I inspected Seymour Recycling. It was noted that Chemical Waste Management (CWM) had begun solidification of the flammable solids. I sampled the influent and effluent of the on-site wastewater treatment system. I noted and reported to CWM that surface water had overflowed onto the drum pad access road. That road is supposed to remain contamination-free so that the trucks, used to haul the waste away, will not have to be decontaminated prior to departure.

A meeting was held with CWM, U.S. EPA, trustee, and county health officials. Mr. Mike McKinney, CWM, stated that the flammable solid approval had been received the previous week. Three hundred fifty drums of flammable solids had since been processed. CWM had also received the U.S. EPA approval for use of the Evergreen Landfill in Ohio, however, CWM decided to reaffirm the Ohio EPA approval. They expected word back from the Ohio EPA the following Tuesday. Mr. McKinney said that they were waiting for South Carolina to grant approval for disposal of the previously mentioned radioactive wastes at the Barnwell site.

Mr. Ken Kavanagh, Jackson County Health Department, stated that he would be changing jobs soon and that as of June 27, 1983, Mr. George Jones would be replacing him. Mr. Jones will be fielding the anticipated air odor complaints.

Mr. McKinney stated that the railroad tank cars, that were under consideration for temporary storage, would not be used after all due to CWM's discovery that at least two of the tank cars have three-foot drains on their bottoms. These drains, with valves open, were placed into gravel pits in the soil. CWM had considered using these tank cars for storage of PCB contaminated (less than 500 ppm) liquids.

It is possible that these tank cars were used by previous operators to discharge liquids into the ground. I suggested to Ms. Beverly Kush, U.S. EPA, that she relay this information to the group studying groundwater contamination at Seymour Recycling.

JAK/dw
cc: Mr. Terry Gray

STATE BOARD OF HEALTH

INDIANAPOLIS

OFFICE MEMORANDUM

DATE: June 28, 1983

TO: Seymour Recycling File

THRU:
Jim Hunt
Guinn Doyle gPd
Karen E. Evans
David D. Lamm

FROM: Terry Gray TG
Division of Land Pollution Control

SUBJECT: Seymour Recycling
Inspection of June 23, 1983

On June 23, 1983, I drove to Seymour Recycling, Seymour, Indiana, to monitor the cleanup of the site by Chemical Waste Management.

I attended the weekly meeting in the ENRAC visitor's trailer with Mr. John Dikinis, U.S. EPA; Mr. Glenn Cekus, E & E (FIT); Mr. Tom Pachowitz, E & E (FIT); Mr. Rod Ludwig, Trustee's representative; Mr. Rich Steward, Seymour Wastewater Treatment Plant; Mr. Mike McKinney, Chemical Waste Management; and Mr. Dean Ramsey, Waste Management. The previous week's activities were discussed.

Chemical Waste Management has approval from the Ohio EPA to dispose of scrap metal and debris at the Evergreen Landfill. They anticipate the receipt of approval to dispose of solidified wastes and crushed drums in the near future.

Mr. Mike McKinney said that representatives from Wastex Research, Inc.; 2000 Broadway Street, East St. Louis, Illinois 60205; visited Seymour Recycling on June 22, 1983. They claimed that they had purchased some tanks on the Seymour site and that they would return with a crane to remove them. The acting EPA on-site coordinator, Mr. John Dikinis, called Wastex to get more information. It appears that ECC purchased some tanks from Seymour Recycling. ECC's assets were sold to Wastex. This included the tanks at Seymour. Mr. Dikinis was assured by Wastex's representative that they would not attempt to remove the tanks until the legal ramifications were settled. It is possible that Chemical Waste Management may have already cut up some of the tanks.

The carbon in the filtration system has been changed. E & E (FIT) will back-wash the system tomorrow.

The main source of water in the lagoon is the fire hydrant near the treatment system. This is the only source of fresh water on-site and is used to back-wash the carbon treatment system and to cool the "cold saw." (The cold saw is used to cut ventilation holes in tanks. After ventilation, a cutting torch is used to demolish the tank.) It appears that there may be a leak from this hydrant to the lagoon.

Messrs. Dikinis, Cekus, and Pachowitz also talked about a possible violation of the Consent Decree. Chemical Waste Management workers are using a spiked axe to open 55-gallon containers. I hope to gather more information about this practice during my next visit to the site.

The next meeting will be held in the ENRAC trailer on June 30, 1983, at 8:00 a.m.

TFG/tw
cc: Mr. Jim Knoy

DEPARTMENT OF HEALTH & HUMAN SERVICES

lf

ATTACHMENT 1

Public Health Service
Centers for Disease Control

Memorandum

file SPC, 83

Date August 11, 1983

From Assistant Director for Programs
Chronic Diseases Division, CEH

Subject Seymour, Indiana

To Ms. Georgi Jones
Chief, Superfund Implementation Group
Center for Environmental Health

The attached report regarding a cancer cluster in the above-mentioned community has been prepared by Dr. Tom Welty at the request of Mr. Peter McCumiskey.

Frank S. Lisella, Ph.D.

Attachment

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service
Centers for Disease Control

Memorandum

Date August 4, 1983

From EIS Officer, Cancer Branch

Subject Seymour, Indiana Cancer Cluster

To Frank Lisella, Ph.D.

I have reviewed information forwarded to me by Peter McCumiskey regarding cancer cases that have occurred among people who live near the Seymour Recycling Corporation in Seymour, Indiana. Many organic compounds including benzene, chloroform, 1,2 dichloroethane, ethylbenzene, phenol, toluene, and trichloroethylene were found leaking from deteriorating drums at this Superfund site, which is now being cleaned up. The local health department and citizens in the neighborhood are concerned that the cancer rates are elevated as a result of exposure to the Seymour site.

I have compared the mortality rates and the incidence for cancer in the Seymour neighborhood with the 1973-77 United States Surveillance, Epidemiology, and End Results (SEER) Program rates and the cancer mortality rates for Jackson County, Indiana.

During the 3.5 years, from the date of death of the first cancer death to the present, one would expect 2.62 deaths from all types of cancer when 7 were observed ($P = 0.02$, one sided Poisson test). This statistically significant excess of cancer deaths, however, may reflect factors (e.g., community-wide illnesses, medical care availability and adequacy) unrelated to their original causes that may have long since disappeared. Such an excess among newly diagnosed (incident) cancer cases would be more impressive evidence of an exposure to a common cause (e.g., dump site exposure) because incident cases occur closer in time to such a cause than deaths.

But no such excess of incident cancer cases in the Seymour neighborhood has been observed during the 7.5 years from the date of diagnosis of the first cancer case to the present. One would expect 10.98 newly diagnosed (incident) cancer cases when 14 occurred ($P = 0.23$, one sided Poisson test). Thus, the total for all cancers is above that expected, but not statistically significantly so. You would need to observe at least 18 cases to have a statistically significant ($P = < .05$) excess. If the same 3.5 year period from 1980 to the present as with deaths, is arbitrarily considered, one would expect 5.22 newly diagnosed cancer cases when 11 occurred ($P = 0.018$, one sided Poisson test), a statistically significant increase.

Since only one case of each type of tumor has been recorded (except for 2 breast, 2 prostate, and 2 colon cancer cases), it is difficult to determine whether there is an excess in any of the specific cancers. None of the tumors reported are known to be related to environmental exposures, with the exception of the small cell carcinoma of the lung and the glioblastoma that have been reported in workers exposed to hydrocarbons. The types of cancer in the Seymour neighborhood also have different risk factors (e.g. hormonal and smoking in laryngeal cancer). Thus, the likelihood that all these different types of cancer result from air or water pollution due to the Seymour Recycling Corporation seems small.

The data so far presented do not indicate a need to pursue further investigation at this time. Continued monitoring of newly diagnosed cancer cases and cancer deaths in the neighborhood is adviseable. We would be happy to review any additional data you obtain related to this site.

Thomas K. Welty

Thomas K. Welty, M.D.

Table 1. Comparison of Annual Cancer Rates Per 100,000 Population and Cancer Cases in a Seymour, Indiana Neighborhood

	Rates			Numbers		
	SEER^{1}	Jackson County 1970-78^{2}	Seymour Neighborhood^{3}	Observed^{3}	Expected^{4}	P value^{5}
All cancer deaths	166.5	204.0 (white males) 133.7 (white females)	642.8	7	2.62	0.02
All cancer incidence	331.3	Not available	414.8	14	11.12	0.23

[1] National Cancer Institute Monograph #57
SEER: Incidence and Mortality Data 1973-77, pp. 14,32

[2] Riggan, WB, et.al., Cancer Mortality Rates and Trends 1950-78, Health Effects Research Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

[3] Based on information provided by Mrs. Otto as follows:

	Cancer Type	Age	Sex	Date of Diagnosis	Date of Death
1.	Breast	?	F	12/71	
2.	Ovarian	82	F	8/77	9/80
3.	Glioblastoma	43	F	12/77	5/82
4.	Endometrial	37	F	8/78	
5.	Prostate	70	M	11/80	3/81
6.	Small cell lung carcinoma	79	M	?	12/81
7.	Unspecified	71	M	2/82	2/83
8.	Prostate	84	M	4/82	2/83
9.	Pancreas	55	M	9/81	2/83
10.	Esophagus	70	M	10/82	9/82
11.	Hodgkins	23	M	12/82	
12.	Colon	?	M	1982	
13.	Breast	?	F	2/83	
14.	Colon	?	F	2/83	
15.	Larynx	?	M	1983	

This neighborhood includes 450 people. Case #1 was excluded from the analysis because the diagnosis was made in 1971.

[4] Expected cases in the Seymour neighborhood were calculated from SEER rates for a 3.3 year period for mortality and 7.3 years for incidence.

[5] p value based on a 1-sided Poisson test.

SUPERFUND RECORD OF COMMUNICATIONS

REFERENCE/SUBJECT: Seymour Recycling

CHECK APPROPRIATE BLOCK(S)

☐ INCOMING PHONE CALL ☐ CONFERENCE PHONE CALL ☐ VISIT
☐ OUTGOING PHONE CALL ☐ MEETING/ CONFERENCE ☒ ASSIGNMENT

DATE: 8/22/83
TIME:
PHONE NO. (Include Area Code): 6-3005

ROUTING

TO: (Name, Agency, Firm, and Address)
Beverly Kush
OSC Seymour Recycling

FROM: (Name, Agency, Firm, and Address)
Louise Fabinski

PURPOSE OF CALL/VISIT/MEETING

SUMMARY

I have attached the report prepared by Dr. Thomas Wetty concerning the Cancer Cluster at Snyde Acres.

Pete McCumskey had suggested we present the report at a meeting including Jackson Co. H.D. State of Indiana BOH & Lane Ralph from Sen. Lugar & Quayle office.

Also attached memo from McCumskey re: phone call from a reporter in Indiana.

Let me know when you & I should meet to discuss the report and how it should be released. Also whether League of Women voters should be included.

ACTION REQUIRED, INFORMATION OR MATERIALS PROVIDED, E.C.

TYPED NAME & SIGNATURE: Louise Fabinski
DATE: 8/22/83

EPC 80.2(formerly 60.0)
6/82

Seymour Recycling
Seymour, INDIANA

7/19/83

TO: George Jones
CEH/SIG
FROM: Peter McCumiskey
CEH/SIG/USEPA Reg V

Received a call from LAURA WILKINSON, ASSOCIATED PRESS Reporter, INDIANAPOLIS, IN. Ph. 317 639-5501 (work) 317 241-7942 (Home).

Ms. Wilkinson was interested in CDC involvement at the Seymour Recycling Site. I explained our current cancer review being done by Dr. Welty. I told her that morbidity and mortality for cancers in Snyde Acres were being looked into and total numbers were < 20. She wanted to know time frames we're looking at and I suggested she contact Dr. Tom Welty directly. I also told her to contact Beverly Kush, OSC, for information on environmental sampling.

Peter McCumiskey

c Dr. Tom Welty

Today the USEPA, ISBH, CDC, and Jackson County Board of Health met to discuss a cancer analysis prepared by CDC. X Cancer cases diagnosed between 1971 and 1983 which occurred in the Snyder Acres area were included.

Because of citizens concerning regarding the numbers & types of cancer occurring in the Snyder Acres area the SBOH & JCBOH requested that the CDC review the data provided.

The report concluded that these cancers are not known to be related to environmental exposures. The likelihood that all these different cancers result from water or air pollution is small.

The JCBOH, IBOH ~~and the CDC~~ will discuss the possibility of establishing a tumor registry designed to quickly determine whether unusual cancer incidence is occurring. The CDC has agreed to review all data provided.

STATE BOARD OF HEALTH

INDIANAPOLIS

OFFICE MEMORANDUM

DATE: August 30, 1983

TO: Seymour Recycling File

THRU: Karen E. Evans KE 9/1/83

FROM: 8/31/7
James A. Knoy
Division of Land Pollution Control

SUBJECT: Seymour Recycling Inspection

On July 28, 1983, I inspected Seymour Recycling. Ms. Beverly Kush, U.S. EPA; Messrs. James Nothnagel and Gene Gartland, Chemical Waste Management (CWM); Mr. Dale Bowman, Trustee Representative; and I inspected all buildings on-site to determine what materials would be removed by CWM. A meeting was held with CWM, U.S. EPA, Jackson County Health Department, and trustee officials. Mr. Leroy Crees, a new employee of the Jackson County Health Department, joined the meeting. Mr. John Renkes, CWM Project Coordinator, stated that more local people (four) would be hired and a backhoe would be brought on-site to expedite solidification activities. CWM also plans to hire an EMT-trained person. An OSHA inspection is expected soon.

CWM is considering air conditioning a room in the yellow building to help prevent heat stress to its workers. Recently a reading inside a worker's suit indicated temperatures greater than 100° F.

CWM plans to remove and replace surface soils as outlined in the technical proposal. The U.S. EPA was considering variations to the plan; however, the U.S. EPA has not yet brought forth a firm proposal to CWM.

Mr. George Jones, County Health, mentioned that he had received an odor complaint from a Lutheran nursing home. The complaint related to sore throats and pesticide type odors. I was unable to investigate the complaint that day.

After the meeting, Mr. Rick Steward, Seymour Waste Treatment Plant, provided me with information regarding possible detrimental effects of the Seymour Recycling surface water discharge to the Seymour WWTP. On July 15, 1983, Mr. Don Synder, Division of Water Pollution, had inspected the WWTP and noted an organism kill in the secondaries. Mr. Steward indicated that the kill had been present for approximately two months. WWTP personnel has suggested that phenols noted in the Seymour Recycling surface water discharge might be responsible for the kill. Mr. Synder was to reinspect and sample the WWTP on July 28, however, I was unable to meet him. Mr. Gary Hukill, WWTP Superintendent, had informed me earlier in 1983 that the WWTP was sampling the Seymour Recycling discharge at a lift station daily for phenols. Mr. Steward said that they are not conducting that sampling now and he did not know when that sampling was discontinued.

On July 28, I met with Mr. Rob Fairweather, Office of Management and Budget, and gave him a tour of the Seymour Recycling facility. Also on July 28, I noted a large amount of dust leaving the site due to cleanup activities. It is probable that the dust is contaminated. Mr. John Renkes, CWM, stated that CWM was pursuing the purchase of a water truck to control the dust. Later, I informed Mr. Andy Sunderland, Division of Air Pollution Control, of the dust problem.

On August 11, 1983, I inspected Seymour Recycling. Only 26 tanks and approximately 7,000 drums remain on-site. All drums have now been staged. CWM was still attempting to obtain a dust control vehicle.

JAK/tr
cc: Mr. Terry Gray
Mr. Don Synder, Division of Water Pollution Control
Mr. Andrew Sunderland, Division of Air Pollution Control

STATE BOARD OF HEALTH

INDIANAPOLIS

OFFICE MEMORANDUM

DATE: August 31, 1983

TO: Seymour Recycling File

THRU: Karen E. Evans

FROM: JAK James A. Knoy
Division of Land Pollution Control

SUBJECT: Seymour Recycling Inspection

On August 25, 1983, I inspected Seymour Recycling. The fire hydrant was still inoperative; therefore, the surface water treatment system was still inoperative. Chemical Waste Management (CWM) had begun cutting the top one foot of surface soil in the southeast portion of the facility and stockpiling the soil near the north fence. CWM anticipates replacing the soil within one to two weeks. Inspections of the stripped areas indicate substantial subsurface contamination. During the weekly meeting, CWM indicated that sludge dumping procedures were reviewed with their employees to avoid solidification of liquids as was discussed in an earlier memo. CWM also indicated that they will stockpile the backfill soils until an approval letter from EPA arrives indicating its adequacy. CWM also mentioned that only one scraper will be used at the site instead of two as previously indicated.

I contacted Mr. William W. Bailey, Mayor of the City of Seymour, and invited him to the site. Mayor Bailey; Ms. Beverly Kush, U.S. EPA; and I will meet on September 2 to familiarize Mr. Bailey with our activities at the site.

I discussed the dust contamination to the adjacent corn crop with CWM and trustee officials. CWM will analyze the dust collected during the previous week on the corn plants for elevated parameters found during the on-site soil sampling expedition.

JAK/tr
cc: Mr. Terry Gray

STATE BOARD OF HEALTH

INDIANAPOLIS

OFFICE MEMORANDUM

DATE: August 31, 1983

TO: Seymour Recycling File

THRU: Karen E. Evans

FROM: JAK James A. Knoy
Division of Land Pollution Control

SUBJECT: Seymour Recycling Inspection

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I contacted Mr. William W. Bailey, Mayor of the City of Seymour, and invited him to the site. Mayor Bailey; Ms. Beverly Kush, U.S. EPA; and I will meet on September 2 to familiarize Mr. Bailey with our activities at the site.

I discussed the dust contamination to the adjacent corn crop with CWM and trustee officials. CWM will analyze the dust collected during the previous week on the corn plants for elevated parameters found during the on-site soil sampling expedition.

JAK/tr
cc: Mr. Terry Gray

STATE of INDIANA
STATE BOARD OF HEALTH
AN EQUAL OPPORTUNITY EMPLOYER

INDIANAPOLIS
Address Reply to:
Indiana State Board of Health
1330 West Michigan Street
P. O. Box 1964
Indianapolis, IN 46206-1964

SEP 1 1983

Ms. Alisa Yihara
U.S. EPA
Office of Solid Waste--WH562
401 M Street, S.W.
Washington, D.C. 20460

Dear Ms. Yihara:

Re: Seymour Recycling

This is in response to your request of August 18, 1983, for information on the history of Seymour Recycling Corporation, Seymour, Indiana.

From the records, it appears that this agency's first involvement with Seymour Recycling was relative to the operation of liquid waste incinerators and boilers. In 1974, the Indiana Air Pollution Control Division issued permits to Seymour Recycling to operate two incinerators and two boilers. At a later date, the corporation was issued a Stream Pollution Control Board permit for a cyanide destruction unit; however, the facility was never successfully operated.

The first detailed evaluation of the site by the Division of Land Pollution Control (then the Solid Waste Management Section) was in 1976, when a liquid industrial waste hauler permit was issued to Seymour Recycling (then known as Seymour Manufacturing). Upon inspection of the site, it was recognized that a serious management and storage problem existed and the corporation was requested to reduce inventories and eliminate spills. At that time, there were at least 15,000 drums on-site, some of which had been stored in the open since the early 1970's. As a result of inaction on the part of the corporation, the Indiana Attorney General's Office was requested to initiate enforcement action in July of 1977. In April of 1978, a temporary restraining order was issued by the Jackson Circuit Court forbidding the corporation from accepting additional waste for a period of 30 days. A second hearing was held in June of 1978, at which time the court adopted a Consent Decree allowing the site to operate with a schedule for reducing inventories. However, in mid-1979, a third action was filed in Jackson Circuit Court charging the corporation with falsifying reports and failing to reduce inventories. The hearing was delayed by the corporation, and in February of 1980, the management abandoned the site after removing many of the assets.

Initially, the problem at Seymour Recycling was recognized as a health hazard; sufficient data was not available to assess the potential for groundwater contamination. A data search by our staff geologist and information received from various sources that large volumes of waste had been dumped and buried on-site, heightened our concern for possible groundwater contamination. As a result of these concerns and requests received from neighboring residents, in the spring of 1978 the staff initiated the sampling of residential wells in the vicinity of the site. To date, no conclusive evidence of residential well water contamination has been found, although more recently installed monitoring wells have documented groundwater contamination.

I realize that the outline I have provided you is very brief; however, the records on the operation are quite voluminous. If you need more specific information or if I can be of assistance in any other way, please feel free to call me at 317/633-0762.

Very truly yours,

James M. Hunt

James M. Hunt, Chief
Generator/Transporter Section
Hazardous Waste Management Branch
Division of Land Pollution Control

JMH/tr
cc: Mr. Jim Knoy

STATE BOARD OF HEALTH

INDIANAPOLIS

OFFICE MEMORANDUM

DATE: September 8, 1983

.O: Seymour Recycling File

THRU: Karen E. Evans 9/24/83

9/21/83

FROM: James A. Knoy
Division of Land Pollution Control

SUBJECT: Seymour Recycling Inspection

On September 2, 1983, I inspected Seymour Recycling. I walked over the areas to the southwest, south-central, and southeast where one-foot of soil is being removed. I did not visually note any contamination, however, earlier readings by the U.S. EPA utilizing an HNU meter indicated high levels of volatile organics in the subsoils. The surface water treatment system still has not been backflushed, therefore, I could not sample the unit. I noted what appeared to be an overflow pipe from the surface water treatment system collection pond to the wastewater treatment plant sewer line. I plugged the pipe with site debris. After leaving the site, I requested that the U.S. EPA On-Scene Coordinator (OSC), Ms. Beverly Kush, inspect the pipe and have it removed if necessary.

Mayor William Bailey and Mr. John Sprenger, Airport Manager, visited the site at my invitation. Mayor Bailey was given a tour of the facility.

During the weekly meeting, Mr. Gene Buss. Chemical Waste Management (CWM), described the soil removal, cutting plan. I requested a copy of the map which detailed the areas to be cut beyond what is already detailed in the Consent Decree. The additional areas are being removed because they were used for drum staging.

Approximately 1,500 to 2,000 drums remain on-site. A new haul road had been constructed on-site to facilitate contaminated soil removal. The first load of soil was expected to be removed from the site on September 7th. CWM requested that the OSC sign off on each area of soil cutting prior to backfilling.

CWM stated that not enough dust was collected on the corn to run analyses on them. Another sample will be collected on the ground around the plants since recent rains have washed the dust off the plants. The soil on-site has been analyzed, however, only general results were available on September 2nd. Those results were as follows:

Organics	Less than detectable limits
PCB	10 ppm to 12 ppm
Solvents	Less than one percent

A detailed analyses is expected the following week.

JAK/bo
cc: Mr. Terry Gray

BINGHAM SUMMERS WELSH & SPILMAN
2700 INDIANA TOWER
ONE INDIANA SQUARE
INDIANAPOLIS, INDIANA 46204

MATTHEW E. WELSH
CLAUDE M. SPILMAN, JR.
JOHN P. PRICE
HENRY E. BRADSHAW
GRACE M. CURRY
GERALD L. MOSS
ROBERT J. SHULA
DONALD L. JACKSON
JONATHAN L. BIRGE
DAVID O. TITTLE
PAUL J. CORSARO
JON D. KRAHULIK
ROBERT G. WEDDLE
MARTHA HOLLINGSWORTH
WAYNE O. ADAMS III
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GARY L. KLOTZ
DONALD J. GRAHAM
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ROBERT D. MacGILL
JOSEPH H. HOGSETT
D. WILLIAM MOREAU, JR.
ROBIN L. BABBITT
PAMELA J. DAVIDSON
RICHARD W. FIELDS
MARY E. SOLADA
PAUL J. KNAPP

GEORGE F. BINGHAM (1857-1947)
PAUL R. SUMMERS (1887-1978)

JAMES E. BINGHAM
OF COUNSEL

TELEPHONE
635-8900
AREA CODE 317

November 18, 1983

REC'D NOV 21 1983
Subcommittee on Investigations
and Oversight
Committee on Public Works
and Transportation

Robert S. Prolman
Subcommittee on Investigations and
Oversight
Committee on Public Works and
Transportation
B-376 Rayburn House Office Building
Washington, D.C. 20515

Re: United States of America, et. al. vs.
Seymour Recycling, et. al.,
U.S.D.C., Southern District, Indiana
Cause No: IP80-456-C
Our File: FORM-6891

Dear Mr. Prolman:

Please find enclosed for your review a copy of the Lease Agreement between the Board of Aviation Commissioners of Seymour, Indiana and Seymour Manufacturing Company. This is the document which you requested in our meeting of Wednesday, November 16, 1983 at the offices of the Board.

Very truly yours,

Richard W. Fields

Richard W. Fields

RWF/dl
Enclosure

cc: Martha S. Hollingsworth, Esq.

REC'D NOV 21 1983
Subcommittee on Investigations
and Oversight
Committee on Public Works
and Transportation

AGREEMENT OF LEASE

BETWEEN

SEYMOUR, INDIANA, BOARD OF AVIATION COMMISSIONERS

AND

SEYMOUR MANUFACTURING COMPANY

THIS AGREEMENT AND LEASE entered into and executed this 27th day of August, 1969, by and between the BOARD OF AVIATION COMMISSIONERS OF SEYMOUR, INDIANA, hereinafter referred to as "LESSOR", and the SEYMOUR MANUFACUTRING COMPANY, Seymour, Indiana, a Corporation organized under the laws of the State of Delaware, hereinafter referred to as "LESSEE",

WITNESSETH:

In consideration of the mutual promises, covenants and agreements herein contained, the parties hereto agree as follows:

1. Description of Leased Premises. The LESSOR does hereby lease and demise to LESSEE, the following described real estate and properties situated at Freeman Field, Seymour Municipal Airport, Jackson County, Seymour, Indiana, to-wit:

   A. Real Estate. The parcel of real estate described in Schedule "A" attached hereto and made a part hereof.

   B. Buildings and Structures. Situated within the real estate as hereinabove described and as shown and set forth in "Schedule B" attached hereto and made a part hereof.

2. Term of Lease Agreement.

A. The term of this Lease Agreement shall be for a period of twenty (20) years, beginning on the 1st day of September, 1969, and terminating on the 31st day of August, 1989.

B. In the event that Lessee determines to construct a permanent structure on any part of the real estate hereinabove described, and upon appropriate application and notice to Lessor of such intended construction and approval of same by LESSOR, the Lessor shall lease to Lessee, by separate lease agreement, such part of the real estate for such additional term as shall meet the building financing and amortization requirements of Lessee.

Any such lease shall contain the same general lease requirements and conditions as are provided in other long term lease agreements, in use by the Lessor on Freeman Municipal Airport.

It is further understood and agreed that any such lease and its approval shall meet all requirements of the Indiana Municipal Airport Act of 1945, as amended.

3. Annual Lease Rental. The Lessee does hereby covenant, promise and agree that it shall pay to the Lessor, during the term of this Agreement, the sum of Five Thousand, One Hundred and Sixty Dollars ($5,160.00) per annum, Four Hundred and Thirty Dollars ($430.00) payable in advance, on the date of this Agreement, and an equal amount annually thereafter on the anniversary date of this Agreement, except as hereinafter provided.

It is further understood and agreed that upon the tenth (10th) anniversary date of this Agreement, the annual lease rental, as herein provided, may be adjusted by increase or decrease in an amount which shall reflect the then current average rate of interest return on capital investment from real estate in effect in the community, using as a base the true appraised value of the real estate at such time, determined by appropriately recognized and accredited real estate appraisers, exclusive of the value of permanent structures built by Lessee during the term of this lease.

For the purpose of this provision only, the initial basic evaluation of the total subject real estate (land and improvements) is established to be One Hundred and Two Thousand Dollars ($102,000.00) with basic land value at Two Thousand Dollars ($2,000.00) per acre.

4. Use of Premises. The subject real estate and premises shall be used by the Lessee for the operation of a manufacturing business, and for such other purposes consistent and compatible with the conduct and operation of such business.

It is understood and agreed between the Lessor and Lessee that no change in the use of such leased premises shall be permitted, except upon written consent of the Board of Aviation Commissioners of Seymour, Indiana, which approval shall not be unreasonable withheld.

It is further understood and agreed by and between the Lessor and Lessee that the demised premises, buildings and improvements thereon, shall not be used for any purpose or in any manner which would result in smoke emission or the release of particulate or odorous matter or interfere with or endanger in any way, operation of aircraft at Freeman Municipal Airport, nor interfere with the maintenance, development or operation of Freeman Municipal Airport, nor cause electrical interference with radio communications, nor use lights which would make it difficult for airmen to distinguish between airport lights and other, or result in glare to the eyes of flyers using said airport, nor shall such demised premises be used in any manner which could be considered a hazard under the conditions, restrictions and limitations of this Agreement and to the operation of the airport.

5. Maintenance, Repair, Restoration or Replacement of Existing Structures. The Lessee does hereby covenant, promise and agree that it shall maintain and keep in good order, service and repair, the exterior of the existing buildings, including roofs, and the interior of all buildings and structures which are now or shall hereafter be constructed on the said premises, provided, however, that nothing herein contained shall require lessee to maintain and keep such buildings and structures in any better state, condition or order, service or repair than such buildings were in at the beginning of the term of this Agreement.

The Lessee does further covenant, promise and agree that it shall restore or replace any building or buildings shown on said Schedule "B" that shall be damaged or destroyed by fire, water, storm, explosion, or any other casualty, provided, however, that nothing herein contained shall require the restoration or replacement of any of said buildings which Lessee determines is not necessary to the use or operation of the leased premises and which the Lessor shall agree need not be restored or replaced.

It is agreed, however, that notwithstanding the conditions of this provision herein contained, any structures or buildings designated for demolition as indicated on Schedule "B" hereof, or which may hereafter be determined by agreement of the parties to be demolished, may be demolished and removed by Lessee from the premises. The cost or expense of any such demolition and removal shall be the responsibility of the Lessee.

The Lessee does further agree that it shall keep in good order, condition and appearance all grounds in the demised premises, including all fencing.

6. Addition, Improvement, or Enlargement of Buildings and Facilites.

A. It is understood and agreed between the parties hereto that the Lessee may, at any time during the continuance of this agreement, erect additional buildings or facilities on the demised premises.

The Lessee does hereby agree that, prior to the erection of any building or structure, as herein provided, it shall give written notice to the Lessor of the description and exact location and height of any such proposed building or structure, and the Lessor shall make immediate determination as to whether such proposed building or structure and the location thereof be inconsistent with the established landing and approach minimum requirements of Freeman Field. The Lessee does further agree that it shall comply with all the minimum landing and approach standards of Freeman Field with respect to the location and height of any building or structures to be erected within or on the demised premises.

It is further understood and agreed between the parties hereto that the Lessee may, at any time during the continuance of this agreement, enlarge, add to, or otherwise improve any building or structure, provided, however, that any such enlargement, addition, improvement or alteration shall be at the sole cost and expense of the Lessee.

In the event that the Lessee erects any new building or structure on the demised premises, such building or structure shall remain and become a part of the real estate, and shall become the property of the Lessor at the termination of this Agreement; provided, however, that in the event any building or structure be of such temporary character or nature as not to become a part of the real estate, being an erector or prefabricated type of structure, then in such event any such temporary structure or building shall remain the property of the Lessee.

In the event that any building or structure becomes obsolete or damaged to such degree that its removal is necessary and in the interest of the maintenance and development of the demised premises, such building or structure may be removed upon written notice to the Lessor and consent in writing granted by Lessor, which consent shall not be unreasonably withheld.

The Lessee does further agree that, in the event of the removal of any temporary building or structure which had not become a permanent part of the real estate or demised premises, that said Lessee shall restore the land or real estate to its original condition prior to the erection of such building or structure.

B. Requirements - Building Construction. The building design, plan and construction, including materials, shall conform to all design and building requirements of Lessor.

All plans and specifications for such building shall be approved by the Lessor, prior to the initiation of any construction. The cost and expense of construction shall be that of the Lessee.

It is understood and agreed that the Lessee shall pay all cost, expense and liabilities arising out of or in any way connected with the construction of the buildings and shall keep the demised premises and structures thereon free and clear from any and all liens of mechanics and materialmen, and all liens of a similar character arising out of or growing out of the construction, repair, alteration or maintenance of such building. The Lessee agrees to give actual notice thereof in advance to any and all contractors, sub-contractors and other persons, firms or corporations that may furnish any such materials, service or labor of the "No-Lien" provision of this Agreement.

It is understood and agreed, however, that this provision shall not prohibit lessee executing appropriate mortgages covering the construction cost of the structure, provided, however, that any mortgagee's interest in such mortgage shall be subordinated to the rights and ownership in the real estate of the Lessor, that the real estate (land) shall in no manner be recognized or acknowledged as security for any such mortgage beyond the equitable interests of the leasehold thereof, as provided in this Lease Agreement, and any such mortgage shall contain appropriate provision consistent with the purpose and intent of this provision.

It is specifically understood and agreed that all building structures, property facilities shall be erected and used throughout the term of this Lease Agreement in accordance with the Freeman Field Industrial Park Master Plan and/or Performance Standards of Freeman Municipal Industrial Park or any amendment thereof, the same as if the subject real estate were within the actual Industrial Park Area of Freeman Field.

7. Utilities.

A. Water and Sewage Disposal. The Lessor agrees to provide water and sewage disposal service to the Lessee at equitable and compensible rates established by the Lessor from time to time. Lessor will use reasonable diligence to provide uninterrupted services. In the event the supply of water at Freeman Field shall become in short supply or critical, the Lessor reserves the right to prohibit or restrict use of any water-cooled air conditioning system not equipped with water reservoir cooling tower facilities.

B. The Lessee shall be responsible for the cost and expense of the installation, maintenance and service of any and all facilities for the transmitting of any utility, water supply, sanitary or storm water sewer installed and connected with existing main facilities. The facilities for utilities shall be installed and maintained in accordance with the rules and regulations and approval of the Lessor.

C. The Lessor hereby retains the right of entry to, on or across the subject real estate herein demised for the purpose of servicing and maintaining, repairing, relocating or extending any part of the utility system under its control and regulation.

D. In the event of any misunderstanding or dispute between the Lessor and Lessee concerning the use and operation of any utility services under the Lessor's jurisdiction, the rules and regulations, established by the Lessor from time to time concerning the use and operation of such utilities shall be controlling. The Lessee agrees that in no event shall the Lessor be liable or responsible for the servicing or furnishing of any utility or service should the Lessor cease and terminate the operation of such service or services on Freeman Field or in the Industrial Park Area of Freeman Field.

8. Payment of Personal and Real Estate Taxes. The Lessee does hereby agree that in addition to the payment of lease rental payments herein provided, the Lessee shall pay any and all real or personal property taxes that may hereafter be assessed against the demised premises, building, improvement or contents thereof as same may or shall become due from time to time.

9. Operation of Aircraft. The Lessee does hereby agree that nothing herein contained shall prevent, hinder or obstruct the free and unobstructed passage and flight of aircraft through the air-space above the land herein demised, and that no part of parcel of said real estate or property shall at

any time be used in any manner as shall constitute a filght hazard or interfere in any way with the operation, landing or taking off of airport or the use of Freeman Municipal Airport as a;public airport.

10. Storage of Materials. The Lessee agrees that the conduct and operation of its business shall be such that no materials, supplies, goods, etc., of any nature whatsoever shall be stored or allowed to accumulate around the exterior of the building, unless within an appropriate designed storage area, appropriately fenced and landscaped and covered as approved by the Lessor.

The Lessee further agrees to maintain and care for the lawn and landscaping on the premises throughout the term of this Agreement, and shall not permit any waste or debris to accumulate at any time within or on the demised premises.

11. Assumption of Responsibility and Liability by Lessee. It is agreed between the parties hereto that the Lessor shall not be liable or responsible to any person or persons whatsoever for any loss, injury or damage that may be occasioned by or through the acts or omissions of the Lessee or by and through the acts or omissions of any persons, except those of Lessor, its agents, employees or invitees, on the property or premises leased by the Lessee hereunder.

The Lessee does further covenant and agree to indemnify and save harmless the Lessor against any and all claims for such loss, injury or damage during the term of this agreement; and in the event of any action or proceeding being brought against the Lessor by reason of any such claim, the Lessor shall notify Lessee promptly thereof, and the Lessee or Lessee's insurer shall assume the defense of such action or proceeding.

12. Lessee's Responsibility to Maintain Insurance. The Lessee does hereby agree that it shall acquire and obtain the following insurance coverages and protections:

> Public Liability and Property Damage. Public Liability and Property Damage covering Lessee's own commercial and business operations conducted on and about the premises in a minimum sum and amount of not less than $100,000 single limit per occurence for personal injuries and property damage combined.
>
> Fire, Casualty and Extended Coverage. The Lessee shall keep the improvements on said real estate insured under fire, casualty and extended coverage insurance policies in such amounts of coverage for each unit as agreed upon by the parties hereto and set forth in the Insurance Schedule attached hereto and made a part hereof.

All such written insurance policies and coverages shall contain appropriate insurance policy endorsements naming and protecting the Lessor's interest as lessor. Appropriate copies thereof or evidence of insurance shall be delivered to the Lessor.

13. Reasonable Rights of Inspection. The Lessor shall have the right, at all reasonable times, to enter, view and make inspection of the property and premises leased hereunder, provided, however, that no such entry and inspection of the property and premises on the part of the Lessor shall violate

any security requirements of a valid or formal nature for which the Lessee may be liable or responsible.

14. Non-Assignability. The parties hereby agree that no part of the demised premises shall be, at any time, in any manner, either directly or indirectly, assigned, hypothecated or transferred to any other person whatsoever without the prior written consent of the Lessor, except to a legally constituted subsidiary or affiliate of Lessee or incident to a statutory merger.

15. Utilities. The acquisition, maintenance and expense of all utility service relative to the demised premises, gas, electricity or water, etc., shall be the sole and exclusive responsibility and expense of the Lessee.

16. Default in Payment of Lease Rental or Compliance with Provisions of Lease Agreement. If the Lessee shall:

A. Default in the payment at any time of any sums required to be paid by said Lessee to the Lessor under the terms and provisions of this Lease Agreement; and shall remain in such default for any period of thirty (30) days thereafter, or

B. At any time default in the performance of any of the provisions of this Lease Agreement which shall be required to be performed by the Lessee, and shall the Lessee fail to correct or cure any such default within thirty (30) days after having received written notice of such default by the Lessor, or

C. At any time prior to termination or cancellation of this lease agreement as herein provided:

(1) Permit or allow an execution to be levied against the leasehold interests hereunder, or

(2) The Lessee make any assignment of its property for the benefit of creditors, or

(3) A petition in bankruptcy, voluntary or involuntary, be filed with respect to the Lessee herein, and the Lessee shall not, within thirty (30) days after notice thereof, either effect or release or dismiss such execution, assignment, or Petition in Bankruptcy, or alternately make (or for its account have someone make) adequate provision to secure the balance or balances of the installment of lease rental payments still unpaid, or

in any of such events hereinbefore set out, Lessor may, at its option, terminate the Lease Agreement and reenter and take possession of said premises. The Lessor shall give written notice of its intention to hold Lessee in default and shall declare to Lessee and to any person in legal possession of the premises and to any bank or other financial institution holding any interest in such premises by mortgage or as collateral in any way, notice of such default and such intent, who has notified Lessor in writing, that it holds such interest. The Lessee or the person in possession of such financial institution shall have thirty (30) days from the receipt of such written notice to cure any defect or default. Failure on the part of any of such persons to cure or correct any said defect or default within such thirty (30) day period shall terminate any and all rights of the Lessee herein in such demised premises and real estate, and the Lessee shall, at the expiration of such thirty (30) day term, peaceably surrender possession of said premises to the Lessor and shall remove from the premises any personal effects or personal property to which the Lessee has the legal right of possession and ownership, and the right to remove said personal property from the premises.

17. Termination of Lease. At the expiration and termination of the term of this Lease Agreement as hereinbefore provided, the Lessee shall surrender possession of said premises to the Lessor and remove all of its effects therefrom.

The rights and interests of the Lessee in such demised premises shall be terminated on the date of the termination of this Lease Agreement.

It is understood and agreed between Lessor and Lessee herein that any and all improvements on the subject real estate shall remain the property of Lessor on the termination of this Agreement or in the event of any default in the terms and provisions of this Agreement by Lessee.

Lessee may terminate this lease five years from the date of its execution provided Lessee gives Lessor one year's written notice of its intenti to terminate.

18. Option to Renew. Lessee may renew this lease for an additional term of ten (10) years upon the same terms and conditions except as to rental and right to renew, the rental to be agreed upon by the parties or if they can not agree, then to be fixed by three appraisers, one to be selected by each

of the parties, a third to be selected by the two and the rent to be fixed by any two of the three. If the Lessee elects to exercise this option, written notice of intent to exercise the same shall be served upon the Lessor not less than one year prior to the expiration of the twenty (20) year term of this lease.

19. Lease Subject to Deeds of Acquisition and Release. It is hereby understood and agreed between the parties hereto that all the terms and provisions of this Lease Agreement are subject to the terms and provisions of the original Quit Claim Deed, Deed of Release by which title and ownership in Freeman Field, Freeman Municipal Airport, Seymour, Indiana, was acquired by the Board of Aviation Commissioners of Seymour, Indiana, and the City of Seymour, Indiana. It is further agreed and expressly understood that no interest or right is conveyed by Lessor to Lessee which was not acquired by the Lessee in its Quit Claim Deed or Deeds of Release acquiring title or ownership and rights to said real estate and property, and that any revocation of title, ownership, rights or interest imposed upon the Lessor herein by the United States of America shall operate in like manner to alter, amend, or change any terms or conditions of this Lease Agreement inconsistent with such revocation by the United States of America insofar as same may or shall apply.

20. Conformance With All Performance Standards. The Lessee, by the execution of this agreement, does hereby agree that its use of the premises and buildings and the conduct of all its business and operations on the premises

shall comply and conform with all Performance Standards of the Airport Industrial Area Master Plan of Freeman Field as adopted or amended from time to time.

21. Non-discrimination and Equal Opportunity Provision of Federal and State Law and Regulation. It is understood and agreed by the Lessee, its agents or employees, that in the use of the premises herein demised, either for the erection of any structure or building, or in the conduct and operation of its business thereon, that the Lessee, its agents or employees, shall comply and conform with all Federal, State or local law, statutes, regulations or requirements pertaining to non-discrimination against any person or persons by reason of race, color, creed or national origin and as such may relate to employment and equal opportunity of persons under such legal requirements.

22. Non-liability of Board Members. It is mutually agreed that the members of the Board of Aviation Commissioners of the City of Seymour and the officials of the City of Seymour executing this Agreement are acting in their official capacities only and assume no personal liability.

IN WITNESS WHEREOF, THE PARTIES HAVE HEREUNTO SET THEIR HANDS AND SEALS this 27th day of AUGUST, 1969.

SEYMOUR MANUFACTURING COMPANY, INC.

by____________________
President

Attest:____________________
Secretary

BOARD OF AVIATION COMMISSIONERS OF
SEYMOUR, INDIANA

by____________________
President

Attest:____________________

"SCHEDULE A"

A part of the Northwest quarter of Section 25, Township 5 North, Range 5 East in Jackson County, Indiana and being more particularly described as follows:

Commencing at the Northwest corner of said quarter; thence North 88 degrees 40 minutes East a distance of 2150.0 feet along the North line of said quarter to a point marked with a 1" iron pipe; thence South 01 degree 12 1/2 minutes East a distance of 1040.3 feet to a point marked with a 1" iron pipe; thence South 89 degrees 12 minutes West a distance of 415.9 feet to a 1" iron pipe; the point of beginning, said point of beginning is also the Northeast corner of tract 25C; thence South 89 degrees 12 minutes West a distance of 465.7 feet to a point marked with a railroad spike; thence Northeasterly along a curve to the right along the centerline of the road to a point marked with a railroad spike, said point being North 21 degrees 24 minutes a distance of 91.5 feet from the last preceeding point; thence North 44 degrees 21 minutes East a distance of 605.7 feet along the centerline of the road to a point marked with a railroad spike; thence South 00 degree 58 minutes East a distance of 512.2 feet to the point of beginning, and containing 2.95 acres, more or less.

This description is subject to 33 feet right-of-way for the above mentioned road.

A part of the Northwest quarter of Section 25, Township 5 North, Range 5 East in Jackson County, Indiana and being more particularly described as follows:

Commencing at the Northwest corner of said quarter; thence North 88 degrees 40 minutes East a distance of 2150.0 feet along the North line of said quarter to a point marked with a 1" iron pipe; thence South 01 degree 12 1/2 minutes East a distance of 1040.3 feet to a point marked with a 1" iron pipe; thence South 89 degrees 12 minutes West a distance of 415.9 feet to a 1" iron pipe, the point of beginning, said point of beginning is also the Southeast corner of tract 25B; thence South 00 degree 53 minutes East a distance of 656.0 feet to a point marked with a 1" iron pipe; thence South 89 degrees 12 minutes West a distance of 702.0 feet to a point marked with a 1" iron pipe; thence North 01 degree 00 minutes West a distance of 324.0 feet to a point marked with a 1" iron pipe; thence South 89 degrees 16 minutes West a distance of 120.0 feet to a point marked with a 1" iron pipe; thence North 00 degree 54 minutes West a distance of 332.0 feet to a point marked with a 1" iron pipe; thence North 89 degrees 12 minutes East a distance of 822.0 feet to the point of beginning, and containing 11.49 acres, more or less.

"SCHEDULE B"

INSURANCE SCHEDULE

ITEM - Fire, Casualty and Extended Coverage

Building and Improvements as designated in Schedule "D" in amounts provided for in Insurance Schedule.

ITEM - Public Liability and Property Damage

Covering Lessees commercial and business operations conducted on and about leased premises.

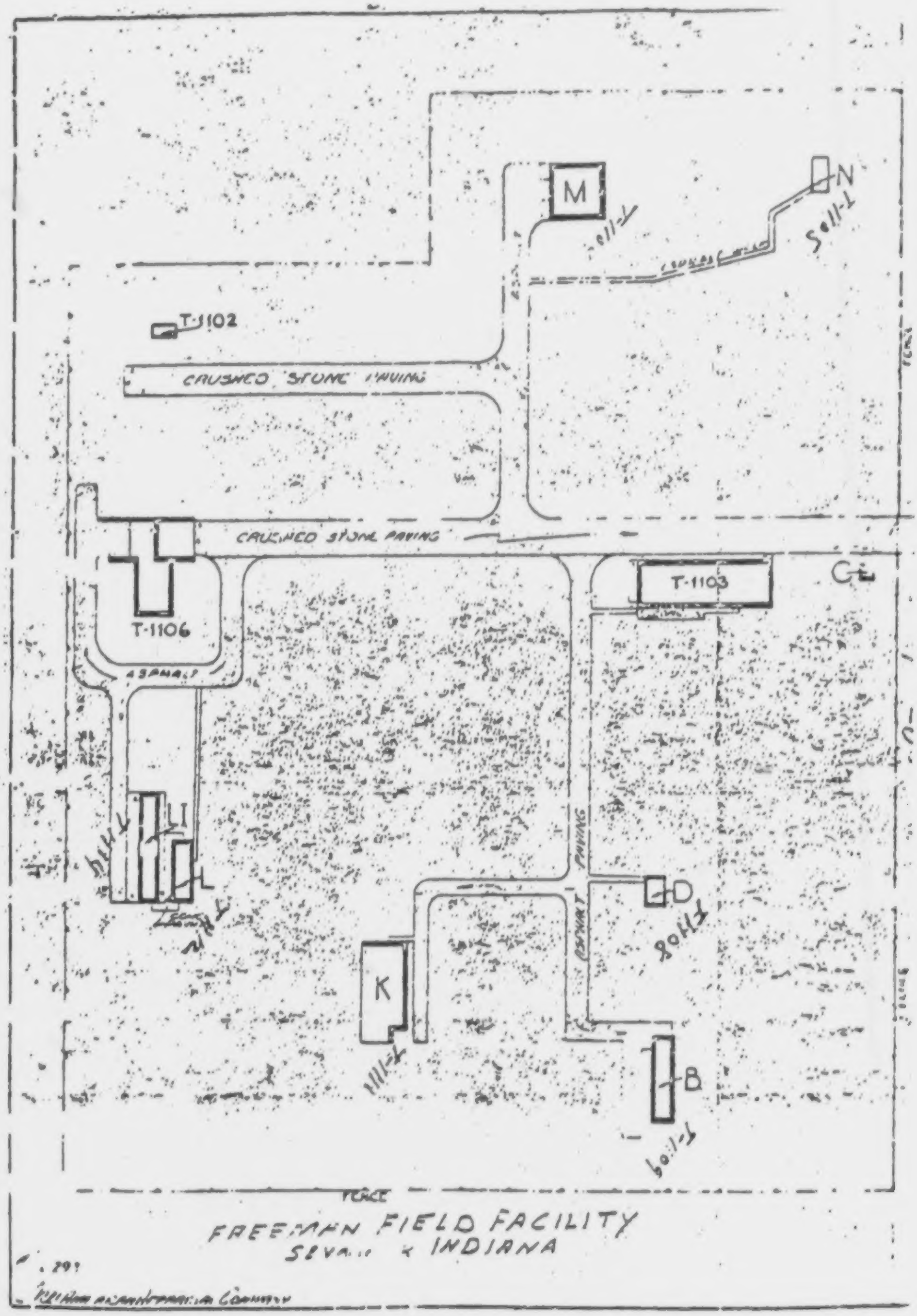
For single limit per occurrence for personal injuries and property damage combined

Amount ------------ $100,000.00

(Each of the above insurance policies shall provide appropriate endorsements naming and protecting: Board of Aviation Commissioners of Seymour, Indiana, City of Seymour, Indiana).

SEYMOUR MANUFACTURING CO. BLDG. INSURANCE SCHEDULE.

	1961 Appraisal Basic Bldg.	50% Value	Actual Value
T-1103	17,043.00	8521.00	8521.00
T-1104 (M)	12,766.00	6383.00	6383.00
T-1106	17,297.00	8648.00	8648.00
T-1111 (K)	25,137.00	12,568.00	12,558.00
T-1112 (L)	8,224.00	4112.00	4112.00
T-1114 (LI)	20,851.00	10,428.00	10,428.00
	101,324.00	50,660.00	50,660.00


T-1102
CRUSHED STONE PAVING
M
N
T-1105
CRUSHED STONE PAVING
T-1106
ASPHALT
T-1103
L
K
T-1111
D
T-1108
ASPHALT PAVING
B
T-1109
FENCE
FREEMAN FIELD FACILITY
SEYMOUR, INDIANA

ATTACHMENT 2

Additional Testimony of James Hunt
Before the Subcommittee on Investigations and Oversight

During my testimony on December 15, 1983, the question was raised as to the follow-up action taken by the Indiana State Board of Health in response to finding a loaded unlicensed trailer at Seymour Recycling on April 3, 1979. A review of the files does not reveal that any action was taken with respect to the trailer. The presence of an unlicensed trailer on-site did not, in itself, represent a violation of State laws or regulations. Although the implications of illegal transportation and disposal were somewhat evident, the activities of April 3 and 4 were directed toward investigating the more obvious problems of discharges of toxic wastes to the sanitary sewers. Numerous problems were routinely encountered at Seymour Recycling; by comparison, the presence of the unlicensed trailer appeared to be a minor problem.

It should be pointed out that monitoring the transportation of hazardous waste is given low priority in both the Indiana Hazardous Waste Management Program and the Federal program. Transporters are a link in the cradle-to-grave approach to managing hazardous waste, and as such, must carry the manifest and comply with applicable U.S. DOT regulations; however, neither the U.S. EPA nor the U.S. DOT has established a surveillance program and the State is not required to conduct surveillance of transporters under an authorized hazardous waste management program. The Indiana State Police have very limited authority to regulate hazardous materials transportation and the Indiana State Board of Health does not have a surveillance program for hazardous waste transportation activities. As is true with the Federal program, the Indiana State Board of Health does not receive copies of manifests; therefore, the generator is responsible for ensuring that the transporter is delivering waste to the designated facility.

Enclosed are the analytical results of the samples I collected on June 15, 1979. A review of the analytical sheets creates many questions which are difficult to answer after three and one-half years have lapsed. I believe the customary procedure at that time was for inorganic analyses to be performed by the Water and Sewage Laboratory and organic analyses to be performed by the Industrial Hygiene Laboratory. The report sheets from the Water and Sewage Laboratory were found in the Division of Land Pollution Control files; however, an analytical report from the Industrial Hygiene Section was missing from the file. A log of the samples submitted, calculation sheets, and partially completed laboratory report forms were obtained from the former staff of the Industrial Hygiene Laboratory and are enclosed. It was customary at that time for the Industrial Hygiene Laboratory to report analytical results in memo form rather than utilizing the laboratory sheets. Therefore, it could be that more complete analytical results were contained in a memo which has since been lost from the Division of Land Pollution Control files.

As indicated during my testimony on December 15, 1983, it is believed that the photographs (slides) correlating with the June 15, 1979, samples are in the custody of the Jackson Circuit Court. However, three "Polaroid" photographs depicting conditions at Seymour Recycling on June 15, 1979, were found in the files. Copies of the photographs are being made and will be sent under separate cover.

Enclosures: Inspection Report dated July 10, 1979
Inspection Report dated May 7, 1979
Analytical sheets & Laboratory calculations

James M. Hunt
December 27, 1983

ATTACHMENT 3

Further Testimony for the Record of
Mr. David D. Lamm
Regarding the Chemical Waste Management Cleanup Proposal

The question of the unacceptability of the Chemical Waste Management cleanup plan as expressed in the August 23, 1982, memorandum from Ronald G. Blankenbaker, M.D., to Patrick Berger, Administrative Assistant, is delineated in the second paragraph of that memorandum. Specifically, the unacceptable provisions are identified as: not removing the tanks, only removing contaminated hot spots, doing nothing for surface water confinement or clay cap, no extent of contamination study, and releasing the generators from liability prior to the determination of the extent of groundwater and subsurface contamination.

Indiana State Board of Health staff had no indication that this was a draft document that could be changed. As it turned out, it was, and many of our concerns were addressed and the others we found we could live with as the complete enforcement strategy and Consent Decree unfolded.

ATTACHMENT 4

Indiana Landfills
Waste Management Inc.

1. Prairie View Landfill, St. Joseph County, permit # 71-2, located on Shively Road, three miles south of Wyatt.
   Responsible party: Mr. Charles Hartsell, PO Box 128, 15505
   Shively Road, Wyatt, Indiana 46595

2. Wheeler Landfill, Porter County, permit # 64-3, located on Jones Road and State Road 130.
   Responsible party: Mr. Donald Ehman, Indiana Waste Systems,
   PO Box 181, Wheeler, Indiana 46393

* 3. LaPorte County Landfill, LaPorte County, permit # 46-1, located one-half mile west of US 421 on County Road 300N.
   Responsible party: Mr. Gene Kliziak, 10501 West 300 North
   Michigan City, Indiana 46360

4. Danville Landfill, Hendricks County, permit # 32-2, located on County Road 75S, one-half mile west of County Road 150E.
   Responsible party: Mr. John Barbush, PO Box 17, 122 Twin
   Bridges Road, Danville, Indiana, 46122

Parent responsible party for all four landfills:
Mr. William Schubert, Waste Management Systems, Inc., 3003 Butterfield
Road, Oak Brook, Illinois 60521

* LaPorte County Landfill, LaPorte County, is owned/leased by the County of LaPorte and operated contractually by Waste Management, Inc.

STATE of INDIANA

STATE BOARD OF HEALTH

AN EQUAL OPPORTUNITY EMPLOYER

1816

INDIANAPOLIS

Address Reply to:
Indiana State Board of Health
1330 West Michigan Street
P.O. Box 1964
Indianapolis, IN 46206-1964

February 3, 1984

Hon. Elliott H. Levitas, Chairman
Subcommittee on Investigations and Oversight
Committee on Public Works and Transportation
U.S. House of Representatives
B 376 Rayburn Building
Washington, D.C. 20515

Dear Congressman Levitas:

On this date we have mailed to Ms. Shirley Novotny the corrected transcript of the testimony presented by me and my staff before the Subcommittee on Investigations and Oversight on December 15, 1983. This testimony was forwarded to me on January 4, 1984, by James J. Howard, Chairman, Committee on Public Works and Transportation. I also included in that mailing a copy of the letter and enclosures sent December 28, 1983, in response to your request for specific information as well as some photos taken at the Seymour Recycling site on 6-15-79.

I would appreciate receiving a copy of the final document once it is printed.

Sincerely,

RONALD G. BLANKENBAKER, M.D.
STATE HEALTH COMMISSIONER
INDIANA STATE BOARD OF HEALTH

cc: Ms. Shirley Novotny ✓
Mr. David D. Lamm

1881 - A CENTURY OF SERVICE - 1981

File

STATE of INDIANA
INDIANAPOLIS
STATE BOARD OF HEALTH
AN EQUAL OPPORTUNITY EMPLOYER

Address Reply to:
Indiana State Board of Health
1330 West Michigan Street
P. O. Box 1964
Indianapolis, IN 46206-1964

December 28, 1983

Hon. Elliott H. Levitas
Chairman of the Subcommittee on
Investigations and Oversite
Committee on Public Works and Transportation
U.S. House of Representatives
Room 2165
Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Levitas:

Re: Seymour Recycling, Inc.

This will acknowledge our December 15, 1983, appearance before the Subcommittee on Investigations and Oversite and your request for additional information and/or clarification of specific concerns regarding the testimony of various staff members. You specifically requested the following information:

1. A copy of the recent CDC study on cancer morbidity/mortality.
2. What response did the agency make regarding the unlicensed transenvironmental trailer noted in Mr. Jim Hunt's inspection?
3. Copies of lab results and photos of Mr. Jim Hunt's inspection of June 15, 1979.
4. An explanation of why the initial Chemical Waste Management cleanup was "unsatisfactory."
5. A list of facilities currently owned and/or operated by Waste Management, Inc.; in Indiana.

The additional information you requested is provided as follows:

1. A copy of the CDC study is enclosed. (Attachment 1)
2. As requested, Mr. James Hunt has reviewed the files and provided further statements for the record. (Attachment 2)

3. As requested, Mr. James Hunt has reviewed the files and provided further statements for the record. (Attachment 2)

4. As requested, Mr. David D. Lamm has reviewed the file and discussed the Chemical Waste Management cleanup proposal review with staff. (Attachment 3)

5. As requested, Mr. David D. Lamm has reviewed the file and discussed with staff the facilities currently owned and operated by Waste Management, Inc., in Indiana, and that list is provided. (Attachment 4)

We hope this information is of value to you in your activities. If there are any further questions, please feel free to contact me.

Sincerely,

David J. Lamm, M.D. for

RONALD G. BLANKENBAKER, M.D.
STATE HEALTH COMMISSIONER
INDIANA STATE BOARD OF HEALTH

Enclosures

18

ATTACHMENT 1

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service
Centers for Disease Control

Memorandum

file SPC, 83

Date August 11, 1983

From Assistant Director for Programs
Chronic Diseases Division, CEH

Subject Seymour, Indiana

To Ms. Georgi Jones
Chief, Superfund Implementation Group
Center for Environmental Health

The attached report regarding a cancer cluster in the above-mentioned community has been prepared by Dr. Tom Welty at the request of Mr. Peter McCumiskey.

Frank S. Lisella, Ph.D.

Attachment

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service
Centers for Disease Control

Memorandum

Date August 4, 1983

From EIS Officer, Cancer Branch

Subject Seymour, Indiana Cancer Cluster

To Frank Lisella, Ph.D.

I have reviewed information forwarded to me by Peter McCumiskey regarding cancer cases that have occurred among people who live near the Seymour Recycling Corporation in Seymour, Indiana. Many organic compounds including benzene, chloroform, 1,2 dichloroethane, ethylbenzene, phenol, toluene, and trichloroethylene were found leaking from deteriorating drums at this Superfund site, which is now being cleaned up. The local health department and citizens in the neighborhood are concerned that the cancer rates are elevated as a result of exposure to the Seymour site.

I have compared the mortality rates and the incidence for cancer in the Seymour neighborhood with the 1973-77 United States Surveillance, Epidemiology, and End Results (SEER) Program rates and the cancer mortality rates for Jackson County, Indiana.

During the 3.5 years, from the date of death of the first cancer death to the present, one would expect 2.62 deaths from all types of cancer when 7 were observed ($P = 0.02$, one sided Poisson test). This statistically significant excess of cancer deaths, however, may reflect factors (e.g., community-wide illnesses, medical care availability and adequacy) unrelated to their original causes that may have long since disappeared. Such an excess among newly diagnosed (incident) cancer cases would be more impressive evidence of an exposure to a common cause (e.g., dump site exposure) because incident cases occur closer in time to such a cause than deaths.

But no such excess of incident cancer cases in the Seymour neighborhood has been observed during the 7.5 years from the date of diagnosis of the first cancer case to the present. One would expect 10.98 newly diagnosed (incident) cancer cases when 14 occurred ($P = 0.23$, one sided Poisson test). Thus, the total for all cancers is above that expected, but not statistically significantly so. You would need to observe at least 18 cases to have a statistically significant ($P = < .05$) excess. If the same 3.5 year period from 1980 to the present as with deaths, is arbitrarily considered, one would expect 5.22 newly diagnosed cancer cases when 11 occurred ($P = 0.016$, one sided Poisson test), a statistically significant increase.

Since only one case of each type of tumor has been recorded (except for 2 breast, 2 prostate, and 2 colon cancer cases), it is difficult to determine whether there is an excess in any of the specific cancers. None of the tumors reported are known to be related to environmental exposures, with the exception of the small cell carcinoma of the lung and the glioblastoma that have been reported in workers exposed to hydrocarbons. The types of cancer in [illegible] smoking in laryngeal cancer). Thus, the likelihood that all these different types of cancer result from air or water pollution due to the Seymour Recycling Corporation seems small.

The data so far presented do not indicate a need to pursue further investigation at this time. Continued monitoring of newly diagnosed cancer cases and cancer deaths in the neighborhood is advisable. We would be happy to review any additional data you obtain related to this site.

Thomas K. Welty

Thomas K. Welty, M.D.

Table 1. Comparison of Annual Cancer Rates Per 100,000 Population
and Cancer Cases in a Seymour, Indiana Neighborhood

	Rates			Numbers		
	SEER[1]	Jackson County 1970-79[2]	Seymour Neighborhood[3]	Observed[3]	Expected[4]	P value[5]
All cancer deaths	186.3	206.0 (white males) 135.7 (white females)	643.8	7	2.62	0.02
All cancer incidence	331.3	Not available	414.6	14	11.12	0.23

---

[1] National Cancer Institute Monograph #57
SEER: Incidence and Mortality Data 1973-77, pp. 14,32

[2] Riggan, WB, et.al., Cancer Mortality Rates and Trends 1950-79, Health Effects Research Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

[3] Based on information provided by Mrs. Otto as follows:

	Cancer Type	Age	Sex	Date of Diagnosis	Date of Death
1.	Breast	?	F	12/71	
2.	Ovarian	82	F	8/77	9/80
3.	Glioblastoma	43	F	12/77	5/82
4.	Endometrial	37	F	8/78	
5.	Prostate	70	M	11/80	5/81
6.	Small cell lung carcinoma	79	M	?	12/81
7.	Unspecified	71	M	2/82	2/83
8.	Prostate	84	M	4/82	2/83
9.	Pancreas	55	M	9/81	2/83
10.	Esophagus	70	M	10/82	9/82
11.	Hodgkins	23	M	12/82	
12.	Colon	?	M	1962	
13.	Breast	?	F	2/83	
14.	Colon	?	F	2/83	
15.	Larynx	?	M	1983	

This neighborhood includes 430 people. Case #1 was excluded from the analysis because the diagnosis was made in 1971.

[4] Expected cases in the Seymour neighborhood were calculated from SEER rates for a 3.5 year period for mortality and 7.5 years for incidence.

[5] P value based on a 1-sided Poisson test.

SUPERFUND RECORD OF COMMUNICATIONS

REFERENCE/SUBJECT: Seymour Recycling

CHECK APPROPRIATE BLOCK(S)

☐ INCOMING PHONE CALL
☐ OUTGOING PHONE CALL
☐ CONFERENCE PHONE CALL
☐ MEETING/CONFERENCE
☐ VISIT
☒ ASSIGNMENT

DATE 8/22/83	TIME	PHONE NO (Include Area Code) 6-3005

ROUTING

TO (Name, Agency, Firm, and Address)
Beverly Kush
OSC Seymour Recycling

FROM (Name, Agency, Firm, and Address)
Louise Fabinski

PURPOSE OF CALL/VISIT/MEETING

SUMMARY

I have attached the report prepared by Dr. Thomas Welty concerning the Cancer Cluster at Snyde Acres.

Pete McCumskey had suggested we present the report at a meeting including Jackson Co. H.D., State of Indiana BOH & Lane Ralph from Sen. Lugar & Quayle office.

Also attached memo from McCumskey re: phone call from a reporter in Indiana.

Let me know when you & I should meet to discuss the report and how it should be released. Also whether League of Women Voters should be included.

ACTION REQUIRED, INFORMATION OR MATERIALS PROVIDED, ETC.

TYPED NAME & SIGNATURE
Louise Fabinski

DATE
8/22/83

Seymour Recycling
Seymour, INDIANA

7/19/83

TO: George Jones
CEH/SIG
FROM: Peter McCumiskey
CEH/SIG/USEPA Reg V

Received a call from LAURA WILKINSON, ASSOCIATED PRESS Reporter, INDIANAPOLIS, IN. Ph. 317 639-5501 (work) 317 241-7942 (Home).

Ms. Wilkinson was interested in CDC involvement at the Seymour Recycling Site. I explained our current cancer review being done by Dr. Welty. I told her that morbidity and mortality for cancers in Snyde Acres were being looked into and total numbers were < 20. She wanted to know time frames we're looking at and I suggested she contact Dr. Tom Welty directly. I also told her to contact Beverly Kush, OSC, for information on environmental sampling.

Peter McCumiskey

c Dr Tom Welty

Today the USEPA, ISBH, CDC, and Jackson County Board of Health met to discuss a cancer analysis prepared by CDC. All Cancer cases diagnosed between 1971 and 1983 which occurred in the Snyde Acres area were included.

Because of citizens concerns regarding the numbers & types of cancers occurring in the Snyde Acres area the SBOH & JCBOH requested that the CDC review the data provided

The report concluded that these cancers are not known to be related to environmental exposures. The likelihood that all these different cancers result from water or air pollution is small.

The JCBOH, IBOH ~~and CDC~~ will discuss the possibility of establishing a tumor registry designed to quickly determine whether unusual cancer incidence is occurring. The CDC has agreed to review all data provided.

ATTACHMENT 2

Additional Testimony of James Hunt
Before the Subcommittee on Investigations and Oversight

During my testimony on December 15, 1983, the question was raised as to the follow-up action taken by the Indiana State Board of Health in response to finding a loaded unlicensed trailer at Seymour Recycling on April 3, 1979. A review of the files does not reveal that any action was taken with respect to the trailer. The presence of an unlicensed trailer on-site did not, in itself, represent a violation of State laws or regulations. Although the implications of illegal transportation and disposal were somewhat evident, the activities of April 3 and 4 were directed toward investigating the more obvious problems of discharges of toxic wastes to the sanitary sewers. Numerous problems were routinely encountered at Seymour Recycling; by comparison, the presence of the unlicensed trailer appeared to be a minor problem.

It should be pointed out that monitoring the transportation of hazardous waste is given low priority in both the Indiana Hazardous Waste Management Program and the Federal program. Transporters are a link in the cradle-to-grave approach to managing hazardous waste, and as such, must carry the manifest and comply with applicable U.S. DOT regulations; however, neither the U.S. EPA nor the U.S. DOT has established a surveillance program and the State is not required to conduct surveillance of transporters under an authorized hazardous waste management program. The Indiana State Police have very limited authority to regulate hazardous materials transportation and the Indiana State Board of Health does not have a surveillance program for hazardous waste transportation activities. As is true with the Federal program, the Indiana State Board of Health does not receive copies of manifests; therefore, the generator is responsible for ensuring that the transporter is delivering waste to the designated facility.

Enclosed are the analytical results of the samples I collected on June 15, 1979. A review of the analytical sheets creates many questions which are difficult to answer after three and one-half years have lapsed. I believe the customary procedure at that time was for inorganic analyses to be performed by the Water and Sewage Laboratory and organic analyses to be performed by the Industrial Hygiene Laboratory. The report sheets from the Water and Sewage Laboratory were found in the Division of Land Pollution Control files; however, an analytical report from the Industrial Hygiene Section was missing from the file. A log of the samples submitted, calculation sheets, and partially completed laboratory report forms were obtained from the former staff of the Industrial Hygiene Laboratory and are enclosed. It was customary at that time for the Industrial Hygiene Laboratory to report analytical results in memo form rather than utilizing the laboratory sheets. Therefore, it could be that more complete analytical results were contained in a memo which has since been lost from the Division of Land Pollution Control files.

As indicated during my testimony on December 15, 1983, it is believed that the photographs (slides) correlating with the June 15, 1979, samples are in the custody of the Jackson Circuit Court. However, three "Polaroid" photographs depicting conditions at Seymour Recycling on June 15, 1979, were found in the files. Copies of the photographs are being made and will be sent under separate cover.

Enclosures: Inspection Report dated July 10, 1979
Inspection Report dated May 7, 1979
Analytical sheets & Laboratory calculations

James M. Hunt
December 27, 1983

STATE BOARD OF HEALTH

INDIANAPOLIS

OFFICE MEMORANDUM

DATE: July 10, 1979

TO: Seymour Recycling Corporation Files
Seymour, Indiana

THRU:

FROM: Jim Hunt JH

SUBJECT: Inspection of June 15, 1979

On June 15, 1979, Jim Hunt of the Division of Water Pollution Control made an inspection at Seymour Recycling. Bill Kovacs and Joe Pittman were contacted.

A tour of the facility revealed several spills. The following samples and photographs were taken:

1. Sample No. 2, photo No. 8
   Spill of "hex" in "hex" drum storage building.
2. Sample No. 2, photo No. 9
   Ditch contents being pumped to sanitary sewer east of yellow building.
3. Sample No. 3, photos 11 and 12
   Reddish-brown waste pooled on ground west of the drum crusher. Appeared to be leakage from drums. Strong solvent odor.
4. Sample No. 4, photo No. 14
   Discolored rainwater at south end of ditch paralleling the Pink Palace Road.
5. Sample No. 5, photo No. 15
   Brown waste in ditch which parallels the Pink Palace Road southwest of Pink Palace.
6. Sample No. 6, photo No. 16
   South end of the hypalon-lined ditch
7. Sample No. 7, photo No. 17
   Yellowish-white powder along road paralleling the southend of the property.
8. Sample No. 8, photo No. 18
   Brown liquid immediately east of sample No. 7.
9. Sample No. 9, photos No. 19 and 20
   Black viscous waste west of the lab in the ditch.

10. Sample No. 10, photos 1 and 2 (Second Roll)
    Reddish solvent-type waste in pit south of the tall building concrete slab.

11. Sample No. 11, photo No. 3
    "Hex" tank

12. Sample No. 12, photos No. 4 and 5
    Black oily waste south of G "Series" tanks. Cresylic acid odor, possibly wire enamel.

13. Sample No. 13, no photos
    Solvent of waste along dump station road, presumably leakage from recently received drums. Smells like lacquer thinner.

14. Sample No. 14, photo No. 6
    Water in catch basin along east side of entrance drive and north of gate. Brown color and chemical odor.

15. Sample No. 15, no photo
    Pooled waste in ditch immediately west of entrance drive and north of gate. Brown color and chemical odor.

16. Sample No. 16, no photo
    Ditch approximately 150 feet northwest of corner of Seymour Recycling property. Beyond 100 right-of-way. Brown color and chemical odor.

17. Sample No. 17, no photo
    Stream at County Road near Wilburt Otte Farm.

18. Sample No. 18, no photo
    Oily substance at old sewage treatment plant lift station.
    Collected at approximately 9:40 a.m., E.S.T.

The samples were immediately iced and submitted to the State Board of Health Laboratories on June 19, 1979, Sample Nos. 3 through 10, 12, and 13 were delivered to the Industrial Hygiene Lab. The remaining samples were delivered to the Water Lab.

It was pointed out to Kovacs and Clav that Transenvironmental vehicles were still not properly identified pursuant to SPC 17. A trailer bearing Decal No. 187, Kentucky License No. T05-555 was not lettered. Another trailer van, Kentucky License No. T05-561 did not have lettering or decals. Kovacs agreed to properly license and identify the vehicles.

The Corporation's union contract expired on June 16, 1979, and there was some indication that the union employees would strike. Mr. Kovacs indicated that the Corporation was going to prepare for any potential problems by locking all building and tanks and manning the operations 24 hours a day. Only six of the 13 hourly employees belong to the union. Mr. Kovacs indicated that progress in cleanup of the site would not be hampered by the union problems. Win Enterprises will continue to process drums and if necessary Mr. Kovacs will bring in salaried people from the Chem-dyne and Carclawn operations to assist.

A concrete slab had been poured east of the Yellow Building and two storage tanks were in position. Joe Pittman indicated two more tanks were to arrive shortly. The tanks are being purchased from Story Oil, Seymour and have a capacity for approximately 12,000 gallons each.

Bob Gatte of the Jackson County Health Department indicated that a fire occurred at Seymour Recycling on May 31, 1979. The Seymour Fire Department was called to the scene. Joe Pittman indicated that faulty wiring on an electric motor ignited a pool of solvent at the drum dumping station. The fire was extinguished with foam by the fire department.

Prior to the above inspection, Jim Hunt and Chuck Wilson of the Division of Air Pollution Control Serviced the high-volume air sampler located on the H. O. Canfield Building. At approximately 9:40 a.m., E.S.T. Mr. Hunt collected a sample of oily substance from the lift station at the old sewage treatment plant. The field manhole [illegible] between the lift station and Seymour Recycling was also checked and the water was clear and had no odor. If the material in the lift station was from Seymour Recycling it must of been the result of a previous discharge.

cc: Mr. George Halloran
Mr. Jim Hunt

STATE BOARD OF HEALTH

INDIANAPOLIS

OFFICE MEMORANDUM

DATE: May 7, 1979

TO: Seymour Recycling Corporation Files
Seymour, Indiana

THRU:

FROM: Jim Hunt

SUBJECT: Inspections of April 3 and April 4, 1979

On April 3, 1979, Dick Zeiler of the Air Pollution Control Division and Jim Hunt of the Division of Water Pollution Control made a trip to the Freeman Field Industrial Park located one mile southwest of Seymour. The purpose of the visit was to determine the best location to install a high-volume air sampler to monitor particulate emissions from Seymour Recycling Corporation.

It was decided that the best location was on top of the H. O. Canfield Building which was approximately one quarter mile northeast of Seymour Recycling. The site is down wind from Seymour Recycling Corporation and a power supply is readily available. The management at Canfield was very cooperative, however, it was indicated that authorization to install the sampler would have to be secured from corporate headquarters and the airport manager, Mr. Donald Heiwig. On the following day, Canfield advised Jim Hunt that both parties had been contacted and that we could proceed with installation of the sampler.

While Dick and I were at Canfield, it was brought to our attention that Seymour Recycling Corporation's vacuum truck was at the abandoned sewage treatment plant, located on "G" Avenue approximately one quarter mile east of Canfield. When we arrived at the plant, Darin Green, Chemist for Seymour Recycling Corporation, and another employee were pumping a very odorous substance from the sanitary sewer lift station. Darin indicated that the substance was oil and that it had entered the sewer system as a result of a spill at Seymour Recycling. We then contacted John Hall at Seymour Recycling. John indicated that he was not aware of any spills at the plant, and that the material may not have come from Seymour Recycling.

While Seymour Recycling Corporation personnel were at lunch, Dick, George Halloran, and I made an inspection of the facility. The following conditions were noted:

1. A small pump was located at the south end of the property at the entrance to one of the bunkers formerly used to store lab chemicals. Attached to the pump was a garden hose which led to a ditch to the east of the pump site. Prior to my arrival, George had observed that a dark yellow substance was being pumped to the ditch. A sample of the remaining waste was collected and a subsequent analysis revealed that the waste

contained fairly high concentrations of cadmium and chromium. I mentioned the incident to John Hall during a phone conversation on April 5, and he indicated that the waste had been checked by the Chemist and that it was being pumped to the ditch for subsequent discharge to the sanitary sewer.

2. We inspected the site of the spill noted during my inspection on March 8, 1979. An absorbent material had been placed on a portion of the waste but there was no indication that any of it had been cleaned up. Some of the drums had been uprighted but several were still haphazardly situated in the ditch. A sample of the waste was collected.

3. Waste was spilled on the soil along the east side of the driveway east of the offices. A sample was collected for analaysis. John Hall was asked about the spill material on April 5, but he could not give any information as to what the waste was or how it was spilled.

4. Transenvironmental's trailer No. 902 was on-site. It did not have the required lettering nor did it have a license plate. The trailer was loaded with drums.

At approximately 7:00 p.m., E.S.T., on April 3, 1979, I received a phone call from Tony Schrink, an employee of H.O. Canfield. Tony indicated he had been contacted by Holly Rieckers, who lives approximately one and one-half miles north of Seymour Recycling. Tony stated that Mrs. Rieckers had to evacuate her home because of strong chemical fumes which had entered the house through the sewer system. He collected a sample of the sanitary waste from a manhole located two homes to the west on the Mike Isaacs property. I told Tony to refrigerate the sample and we would pick it up on the following day. He had also contacted Bob Gatte of the Jackson County Health Department who was going to make an immediate investigation. At approximately 9:00 p.m., E.S.T., on the same evening, I received a call from Bob Gatte. Bob was at the Rieckers home an indicated that the fumes had dissipated considerably, however, the Rieckers family was not going to return to the house until the next day. Mr. Gatte was going to collect another sample from the sanitary sewer.

On April ~~5~~ 4, 1979, Bob Gatte and Jim Hunt continued the investigation of the spill of waste into the sanitary sewer. Mrs. Rieckers was contacted at her home at 1505 New Ford Road, in Seymour (522-4276). Mrs. Rieckers indicated she first noted the odors outside of her house on Monday evening and by Tuesday morning it was noticeable inside. At first she thought it might have been a gas leak and called the gas company. The gas company employee investigated the complaint and indicated that the fumes were apparently originating from the sanitary sewer system. He indicated that the concentrations of vapors in the crawl space beneath the house were not explosive. At approximately 6:00 p.m., E.S.T., on April 3, Mrs. Reickers contacted the Seymour sewer department (522-7229) and was told that someone would investigate her complaint. Later, Mayor Ernest contacted her and indicated that there may be a leak in the sewer conncection between her home and that he would have representatives from Seymour Recycling Corporation discuss the incident with her.

Mrs. Reickers indicated she experienced headaches and "watering" of the eyes while being exposed to the fumes. Mr. Walter Halfman, who lives one house east, also experienced similar problems. The custodian of the Seymour High School also complained of the fumes.

We then visited the Seymour Sewage Treatment Plant. In Gary Hukill's absence, we contacted Randy Smith. Randy indicated he first noticed the fumes at the treatment plant on the morning of April 2. Although the discharge caused some discomfort to the employees ("watering" of the eyes) he stated it didn't appear to affect the operation of the plant. The distinctive odor was still noticeable at the plant. He recalled that Seymour Recycling had discharged an oily substance to the sewer approximately two months ago and that a discharge of styrene into the sanitary sewer in the fall of 1978 caused considerable operational problems. I contacted Gary Hukill at his home with regard to the arrangements the City had made with Seymour Recycling for accepting waste into the sanitary sewer system. He indicated Seymour Recycling did not advise the treatment plant prior to discharge of wastewater to the plant. I again advised that the City of Seymour would be held responsible for violations of its NPDES permit resulting from discharges by Seymour Recycling. Gary assured me he would meet with Seymour Recycling to develop a more controlled situation. On April 5, 1979, he called to advise of the results of the meeting. The following procedures are being implemented:

1. All manholes are being equipped with locks and the sewage treatment plant will keep the keys.

2. Seymour Recycling will provide the City with an analysis and a sample of the waste prior to discharge to the sewer.

3. The City will set up an automatic sampler in the sewer line prior to authorizing the discharge and the sampler will be operated until the discharge has been completed.

Gary expressed concern that neither the City nor Seymour Recycling had the analytical equipment (GS-MS) to analysis for unknown organics. I indicated that our lab might be able to provide some assistance in this area if he held a sample for us. With regard to locking the manholes, I pointed out that at least one building drain and the grated sewer into which the cooling water is discharged is still accessible for unauthorized discharges. Also, as pointed out by Bob Gatte, during rainy periods contaminated rainwater may rise to a high enough elevation to enter the manholes.

During a phone conversation with Jim Hunt on April 6, 1979, Bob Gatte expressed concern over the accumulation of rainwater on the Seymour Recycling property. The Corporation's intention was to prevent discharges to the stream by retaining it on the property and pumping it to the sanitary sewer. This approach has caused the following problems:

1. The Corporation has not eliminated discharges during high rainfall periods. This was documented by Bob Gatte on April 2, 1979. The discharge was observed and samples were collected.

2. As pointed out earlier, there is the potential for uncontrolled discharges to the sanitary sewer system.
3. The retaining of the water on-site will increase the amount of vertical movement of contaminants into the ground water.
4. The resulting muddy conditions hampers the corporation in moving drums of waste and accelerates the deterioration of the drums.

Bob has suggested that the Corporation install a holding basin into which the rainwater could be pumped. This approach may be feasible, however, the basin would need to be sealed well (with what?) and with the present drum inventory, there is no cleared area on site.

cc: George Halloran
Jim Hunt

Seymour Recycling - Seymour

WATER SAMPLE IDENTIFICATION SHEET

Sample Site Ditch contents immediately W of "yellow Bldg." - Being pumped to city sewer

Station Number 2

Sample Date 6 (Mo 11-12) 15 (Day 13-14) 79 (Yr 15-16) AM [✓ PM]

Supervisor J M Hunt

Collector(s) JMH

Delivered to lab 6 (Mo) 19 (Day) 79 (Yr) AM PM

By J M. Hunt

	Kind	Lot No	Amount
Preservatives Added	NONE		
ICED			

Sample Chlorinated ____ Not Chlorinated ✓

	Field	Lab
No. of 1 Liter Plastic Bottles		
No. of 2 Liter Plastic Bottles		
No. of Bacteriological Bottles		
No. of Glass Jars or Bottles	1	
Total		

Standard Procedure Followed All Some None

NPDES Number ____ (1-7) Outfall ____ (8-10)

3 (17)
1. NPDES
2. SPC-18
3. WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18)
1. Industry
2. Semi-Public
3. Municipal
4. Federal
5. Public Water Supply
6. State operation
7. Other

1 (19) Sample Type
1. Grab
2. 24-hour comp
3. 8-hour comp
4. 24-hour flow comp
5. 8-hour flow comp

____ (20) Sample Interval

0 (21)
0 - at outfall
1 - above outfall
2 - below outfall

____ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No 1457 Date [illegible] (Mo Day Yr AM PM)

Rec'd by [illegible]

Temp of samples when received [illegible]

Comments

REPORTED

CODE	PARAMETERS		UNIT		LAB DATA
28-32 00410	Alkalinity Total CaCO₃		mg/l		34-41
00610	Ammonia-N		mg/l		
01002	Arsenic		ug/l		
00310	BOD₅		mg/l		
01027	Cadmium	TOT	ug/l	✓	10 ①
00940	Chlorides		mg/l		
01032	Chromium-Hex		ug/l		
01034	Chromium-Tot		ug/l	✓	0.55
00335	COD		mg/l		
01042	Copper	Tot	ug/l	✓	560. ①
00720	Cyanide-CN		mg/l		
00951	Fluoride		mg/l		
01045	Iron		ug/l		
01051	Lead	Tot	ug/l	✓	270. ①
01055	Manganese		ug/l		
71900	Mercury		ug/l		
01067	Nickel	Tot	ug/l	✓	90. ①
00630	NO_2-NO_3-N		mg/l		
00550	Oil & Grease		mg/l		
00403	pH (lab)		S.U.		
32730	Phenols		ug/l		
00665	Phosphorus-P		mg/l		
00530	Solids - Susp		mg/l		
00500	Solids (total)		mg/l		
00945	Sulfate		mg/l		
00625	TKN		mg/l		
00680	TOC		mg/l		
01092	Zinc	T	ug/l	✓	[illegible] ①
31616	Fecal coliform		100 ml		

①: DIGESTED SAMPLE PROCEDURE

WATER SAMPLE IDENTIFICATION SHEET

Sample Site BLANK - Distilled H_2O

Station Number 19

Sample Date 6 (Mo 11-12) 15 (Day 13-14) 79 (Yr 15-16) ____ AM/PM

Supervisor J M Hunt

Collector(s) J M Hunt

Delivered to lab 6 (Mo.) 19 (Day) 79 (Yr.) [✓ AM] PM

By J M H.

	Kind	Lot No	Amount
Preservatives Added	NaOH		
	H_2SO_4		
	HNO_3		

Sample Chlorinated ____ Not Chlorinated ✓

	Field	Lab
No. of 1 Liter Plastic Bottles		
No. of 2 Liter Plastic Bottles		
No. of Bacteriological Bottles		
No. of Glass Jars or Bottles		
Total		

Standard Procedure Followed All Some None

NPDES Number ____ (1-7) Outfall ____ (8-10)

____ (17)
1 NPDES
2 SPC-15
3 WQ Study
4 Pollution complaint
5 Fish kill investigation

____ (18)
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 State operation
7 Other

____ (19) Sample Type
1 Grab
2 24-hour comp
3 8-hour comp
4 24-hour flow comp
5 8-hour flow comp

____ (20) Sample Interval

____ (21)
0 - at outfall
1 - above outfall
2 - below outfall

____ (22-26) Stream mile from outfall

LAB INFORMATION

Lab No 1452 Date 6 - 19 - 79 (Mo Day Yr) 3 [✓ AM] PM

Rec'd by

Temp of sample when received 5°C

Comments

CODE	PARAMETERS	UNIT		LAB DATA
28-32 00410	Alkalinity Total $CaCO_3$	mg/l		34-41
00610	Ammonia-N	mg/l	✓	<0.1
01002	Arsenic	ug/l	✓	<1.
00310	BOD_5	mg/l		
01027	Cadmium	ug/l	✓	<10.
00940	Chlorides	mg/l		
01032	Chromium-Hex	ug/l		
01034	Chromium-Tot	ug/l	✓	<10.
00335	COD	mg/l		
01042	Copper	ug/l	✓	<20.
00720	Cyanide-CN	mg/l	✓	<0.005
00951	Fluoride	mg/l		
01045	Iron	ug/l		
01051	Lead	ug/l	✓	<20.
01055	Manganese	ug/l		
71900	Mercury	ug/l		
01067	Nickel	ug/l	✓	<20.
00630	NO_2-NO_3-N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH Lab	S.U.		
32730	Phenol	ug/l	✓	<5.
00665	Phosphorus-P	mg/l	✓	<0.05
00530	Solids - Susp.	mg/l		
00500	Solids Total	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l	✓	<1.0
01092	Zinc	ug/l	✓	<60.
31616	Fecal coliform	100 ml		

REPORTED

WATER LABORATORY

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling - Seymour
Ditch Approx 150' NW of SRC fence.
Off property Station No. 16

Sample Date 6 MO 11-12 15 DAY 13-14 79 YR 15-16 A.M. [✓ P.M.]

Supervisor J M Hunt

Collector(s) JMH

Delivered to lab 6 MO 19 DAY 79 YR [✓ A.M.] P.M.

by JMH

NPDES NO. ______ 3 - 7 OUTFALL ______ 8 - 10

3 (17)
1 NPDES
2 SPC 15
3 WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18) Category of Discharge
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 State operation

1 (19) Sample Type
1 Grab
2 24-hour comp.
3 8-hour comp.
4 24-hour flow comp.
5 8-hour flow comp.

____ (20) Sample Interval

2 (21)
0 - at outfall
1 - above outfall
2 - below outfall

REPORTED
AUG 2[illegible] 1979
WATER LABORATORY
IND. STATE BD. OF HEALTH

LAB INFORMATION

Lab No 1454 by [illegible]

Rec'd 6 MO 19 DAY 79 YR 9 [✓ A.M.] P.M.

by [illegible]

CONTAINER TYPE & SIZE

glass 500 ml [✓ 1 liter] plastic total no. 4
plastic 2 liter other ______

Standard method followed* all some none

TEMPERATURE & PRESERVATION

Samples rcvd. on ice* [✓ all] some none
Chlorinated samples* all some none
Standard method followed* [✓ all] some none
Teflon capped Foil capped Solvent rinsed
TEMP ______° ______° ______°

Reported out

SBH65-030
State Form [illegible]

CODE	PARAMETER	UNIT		LAB DATA
26-30 00410	Alkalinity Total $CaCO_3$	mg/l		36-41
00610	Ammonia-N	mg/l	✓	0.1
01002	Arsenic	mg/l	✓	0.005
00310	BOD_5	mg/l	✓	
01027	Cadmium Tot.	mg/l	✓	0.03
00940	Chloride	mg/l		
01032	Chromium-Hex	mg/l	✓	<0.01
01034	Chromium-Tot	mg/l	✓	14.
00340	COD	mg/l	✓	560.
01042	Copper Tot	mg/l	✓	0.12
00720	Cyanide-CN	mg/l	✓	0.007
00951	Fluoride	mg/l	✓	0.6
01045	Iron-Total	mg/l		
01051	Lead Tot.	mg/l	✓	0.08
01055	Manganese	mg/l		
71900	Mercury-Total	PPB		
01067	Nickel	mg/l	✓	0.02
00630	NO_2+NO_3 - N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH (lab)			
32730	Phenol	mg/l	✓	0.66
00665	Phosphorus-P	mg/l	✓	0.08
00530	Solids Susp	mg/l		
70300	Solids (total)	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l	✓	130.
01092	Zinc T.T.	mg/l	✓	0.16
74055	Fecal coliform	100ml		
[illegible]	[illegible]	[illegible]		[illegible]

WATER SAMPLE IDENTIFICATION SHEET

Sample Site Seymour Recycling – Seymour
Spill of "hex" on floor of building where drums of "hex" stored

Station Number 1

Sample Date 6 (Mo 11-12) 15 (Day 13-14) 79 (Yr 15-16) AM [✓ PM]

Supervisor J m Hunt

Collector(s) J M H

Delivered to lab 6 (Mo) 19 (Day) 79 (Yr) [✓ AM] PM

By J M Hunt

	Kind	Lot No	Amount
Preservatives Added	NONE		

Sample Chlorinated ____ Not Chlorinated ✓

	Field	Lab
No. of 1 Liter Plastic Bottles		
No. of 2 Liter Plastic Bottles		
No. of Bacteriological Bottles		
No. of Glass Jars or Bottles	1	
Total	1	

Standard Procedure Followed All Some None N.A.

NPDES Number ____ (1-7) Outfall ____ (8-10)

3 (17)
1 NPDES
2 SPC-15
3 WQ Study
4 Pollution complaint
5 Fish kill investigation

1 (18)
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 State operated
7 Other

1 (19) Sample Type
1 Grab
2 24-hour comp
3 8-hour comp
4 24-hour flow comp
5 8-hour flow comp

____ (20) Sample interval

0 (21)
0 - at outfall
1 - above outfall
2 - below outfall

____ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No 1457 Date 6 (Mo) [illegible] (Day) [illegible] (Yr) AM PM

Rec'd by [illegible]

Temp of sample when received [illegible]

Comments: REPORTED

CODE	PARAMETERS	UNIT		LAB DATA
28-32 00410	Alkalinity Total CaCO$_3$	mg/l		34-41
00610	Ammonia-N	mg/l		
01002	Arsenic	ug/l		
00310	BOD$_5$	mg/l		
01027	Cadmium	ug/l		
00940	Chlorides	mg/l		
01032	Chromium-Hex	ug/l		
01034	Chromium-Tot	ug/l		
00335	COD	mg/l		
01042	Copper	ug/l		
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron	ug/l		
01051	Lead	ug/l		
01055	Manganese	ug/l		
71900	Mercury	ug/l		
01067	Nickel	ug/l		
00630	NO$_2$+NO$_3$-N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH lab	S.U.		
32730	Phenol	ug/l		
00665	Phosphorus-P	mg/l		
00530	Solids - Susp.	mg/l		
00500	Solids - Total	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	ug/l		
31616	Fecal coliform	/100 ml		
	Hexachlorocyclopentadiene		✓	1.5% "HS 13" [illegible]

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling - Seymour
atch basin Along E side of entrance
Drive - N of gate Station No 14

Sample Date 6 (MO 11-12) 15 (DAY 13-14) 79 (YR 15-16) AM [✓ PM]

Supervisor J McHunt

Collector(s) JMH

Delivered to lab 6 (MO) 19 (DAY) 79 (YR) [✓ AM] PM

by JMH

NPDES NO ______ (3-7) OUTFALL ______ (8-10)

3 (17)
1 NPDES
2 SPC 10
3 WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18) Category of Discharge
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 State operation
7 Other

1 (19) Sample Type
1 Grab
2 24-hour comp
3 8-hour comp
4 24-hour flow comp
5 8-hour flow comp

______ (20) Sample Interval

2 (21)
0 - at outfall
1 - above outfall
2 - below outfall

______ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No 1456 by CKA

Rec'd 6 (MO) 19 (DAY) 79 (YR) 9 [✓ AM] PM

by CAK

CONTAINER TYPE & SIZE

glass 500 ml [✓ 3 - 1 liter] total no 4

plastic [✓ 1 - 2 liter] other ______

Standard method followed? all some none

TEMPERATURE & PRESERVATION

Samples refrig or iced? [✓ all] some none

Chlorinated samples? all some none

Standard method followed? [✓ all] some none

Teflon capped ______ ° Foil capped ______ ° Solvent rinsed ______ °

TEMP

Reported out

REPORTED

WATER LABORATORY

SBHCP-030
State Form 1697

CODE	PARAMETER	UNIT		LAB DATA
36-40 00410	Alkalinity Total CaCO3	mg/l		36-41
00610	Ammonia N	mg/l	✓	4.2
01002	Arsenic	mg/l	✓	0.034
00310	BOD_5	mg/l		
01027	Cadmium Ti	mg/l	✓	0.06 Ⓓ
00940	Chloride	mg/l		
01032	Chromium-Hex	mg/l	✓	<0.01
01034	Chromium-Tot	mg/l	✓	0.50
00340	COD	mg/l	✓	7600.
01042	Copper	mg/l	✓	0.61 Ⓓ
00720	Cyanide-CN	mg/l	✓	0.449
00951	Fluoride	mg/l	✓	0.9
01045	Iron-Total	mg/l		
01051	Lead Ti	mg/l	✓	0.36 Ⓓ
01055	Manganese	mg/l		
71900	Mercury-Total	PPB		
01067	Nickel	mg/l	✓	0.10 Ⓓ
00630	NO_2+NO_3-N	mg/l		
00560	Oil & Grease	mg/l		
00403	pH (lab)		✓	7.4
32730	Phenol	mg/l	✓	73.
00665	Phosphorus-P	mg/l	✓	2.3
00530	Solids Susp	mg/l	✓	300.
70301	Solids (total)	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l	✓	1900.
01092	Zinc	mg/l	✓	0.66 Ⓓ
74055	Fecal coliform	100ml		

D = DIGESTED - EPA PROCEDURE

Approx 2000' NW of SLC.

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling - Seymour
sample from ditch at County Road
18. at Wilhelm Res. Station No. 17

Sample Date 6 (MO) 15 (DAY) 79 (YR) AM [✓ PM]
11-12 13-14 15-16

Supervisor J m Hunt

Collector(s) J m H.

Delivered to lab 6 (MO) 19 (DAY) 79 (YR) [✓ AM] PM

by J m H

NPDES NO ____ 1-7 OUTFALL ____ 8-10

7 (17)
1 NPDES
2 SPC 10
3 WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18) Category of Discharge
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 State operation
7 Other

1 (19) Sample Type
1 Grab
2 24-hour comp
3 8-hour comp
4 24-hour flow comp
5 8-hour flow comp

2 (21)
0 - at outfall
1 - above outfall
2 - below outfall

____ (30) Sample Interval

____ (32-36) Stream miles from outfall

LAB INFORMATION

Lab No 1453 by [illegible]

Rec'd 6-15-79 (MO DAY YR) 7 AM

by [illegible]

CONTAINER TYPE & SIZE

glass 2 [✓ 500 ml] 2 [✓ 1 liter] total cc 4 L
plastic 2 liter other ____
8) glass jars used instead of 2 L plastic.
Standard method followed? all some none
Use glass jar for phenols

TEMPERATURE & PRESERVATION

Sample refrig. or iced? all some none
Chlorinated samples? all some none
Standard method followed? all some none
Teflon capped Foil capped Solvent rinsed
TEMP ____ ° ____ ° ____ °

Reported out

No nutrient bottle
~~[illegible]~~

CODE	PARAMETER	UNIT		LAB DATA
36-39 00410	Alkalinity Total CaCO3	mg/l		
00610	Ammonia N	mg/l	✓	0.1
01000	Arsenic	mg/l	✓	0.016
00310	BOD5	mg/l	✓	
01027	Cadmium	mg/l	✓	<0.01
00940	Chloride	mg/l		
01032	Chromium Hex	mg/l	✓	<0.01
01034	Chromium Tot	mg/l	✓	<0.01
00340	COD	mg/l	✓	20.
01042	Copper	mg/l	✓	<0.02
00720	Cyanide-CN	mg/l	✓	<0.005
00951	Fluoride	mg/l	✓	0.3
01045	Iron Total	mg/l		
01051	Lead	mg/l	✓	<0.02
01055	Manganese	mg/l		
71900	Mercury Total	PPB		
01067	Nickel	mg/l	✓	<0.02
00630	NO2+NO3 N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH (lab)			
32730	Phenol	mg/l	✓	<0.005
00665	Phosphorus-P	mg/l	✓	0.04
00530	Solids Susp	mg/l	✓	
70301	Solids (total)	mg/l		
00945	Sulfate	mg/l		
70300	TDS	mg/l		
00680	TOC	mg/l	✓	6.9
01092	Zinc	mg/l	✓	<0.02
74055	Fecal coliform	100ml		

REPORTED
[illegible] 2?/1979

[illegible] LABORATORY

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling - Seymour
Catch basin along west side of entrance
Drive. N. of gate Station No 15

Sample Date 6 (MO 11-12) 15 (DAY 13-14) 79 (YR 15-16) AM [✓ PM]

Supervisor JMH/mt

Collector(s) JMH

Delivered to lab 6 (MO) 19 (DAY) 79 (YR) [✓ AM] PM

by JMH

NPDES NO ________ (1-7) OUTFALL ________ (8-10)

3 (17)
1 NPDES
2 SPC 18
3 WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18) Category of Discharge
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 State operation
7 Other

1 (19) Sample Type
1 Grab
2 24-hour comp
3 8-hour comp
4 24-hour flow comp
5 8-hour flow comp

___ (20) Sample interval

2 (21)
0 - at outfall
1 above outfall
2 below outfall

___ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No 1455 by [illegible]

Rec'd 6 - 19 - 79 (MO DAY YR) 9 [✓ AM] PM

by [illegible]

CONTAINER TYPE & SIZE

glass 500 ml [✓ 3 - 1 liter] total no 4
plastic [✓ 1 - 2 liter] other ________

Standard method followed? all some none

TEMPERATURE & PRESERVATION

Samples rcvd on ice? [✓ all] some none
Chlorinated samples? all some none
Standard method followed? [✓ all] some none
Teflon capped Foil capped Solvent rinsed
TEMP 5 °C ___ ° ___ °

Reported out

REPORTED
[illegible] 1978

SDH65-[illegible]
State [illegible] WATER LABORATORY

CODE	PARAMETER	UNIT		LAB DATA
00-03 00410	Alkalinity Total $CaCO_3$	mg/l		00-41
00610	Ammonia N	mg/l	✓	4.0
01002	Arsenic	mg/l	✓	0.02[illegible]
00310	BOD_5	mg/l		
01027	Cadmium (T.T.)	mg/l	✓	0.060
00940	Chloride	mg/l		
01032	Chromium-Hex	mg/l	✓	<0.01
01034	Chromium-Tot	mg/l	✓	0.60
00340	COD	mg/l	✓	5300.
01042	Copper (T.T.)	mg/l	✓	0.170
00720	Cyanide-CN	mg/l	✓	0.160
00951	Fluoride	mg/l	✓	0.9
01045	Iron-Total	mg/l		
01051	Lead (T.T.)	mg/l	✓	0.370
01055	Manganese	mg/l		
71900	Mercury Total	PPB		
01067	Nickel (T.T.)	mg/l	✓	0.160
00630	NO_2+NO_3-N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH (lab)		✓	7.4
32730	Phenol	mg/l	✓	58.
00665	Phosphorus-P	mg/l	✓	3.1
00530	Solids Susp	mg/l	✓	65.
70300	Solids (total)	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l	✓	1400.
01092	Zinc	mg/l	✓	0.490
74055	Fecal coliform	100ml		
① - Procedure - EPA [illegible]				

W.P.

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling - Seymour
waste accumulated in plastic sheet on end of hex tank. Station No. 11

Sample Date 6 (MO) 15 (DAY) 79 (YR) A.M. [✓ P.M.]

Supervisor J M Hunt

Collector(s) J M Hunt

Delivered to lab 6 (MO) 17 (DAY) 79 (YR) [✓ A.M.] P.M.

by J M H

NPDES NO. ______ (1-9) OUTFALL ______ (8-10)

3 (17)
1. NPDES
2. SPC 16
3. WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18) Category of Discharge
1. Industry
2. Semi-Public
3. Municipal
4. Federal
5. Public Water Supply
6. State operation
7. Other

1 (19) Sample Type
1. Grab
2. 24-hour comp.
3. 8-hour comp.
4. 24-hour flow comp.
5. 8-hour flow comp.

______ (20) Sample Interval

0 (21)
0 - at outfall
1 - above outfall
2 - below outfall

______ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No. 1459 by [illegible]

Rec'd 6 (MO) 19 (DAY) 79 (YR) 9 [✓ A.M.] P.M.

by [illegible]

CONTAINER TYPE & SIZE

glass [✓ 500 ml] 1 liter total no. 1
plastic 2 liter other ______

Standard method followed? all some none

TEMPERATURE & PRESERVATION

Samples refrig. or iced? [✓ all] some none
Chlorinated samples? all some [✓ none]
Standard method followed? [✓ all] some none
Teflon capped ______ Foil capped ______ Solvent rinsed ______
TEMP ______

Reported out

REPORTED
[illegible] 1979

CODE	PARAMETER	UNIT		LAB DATA
56-61 00410	Alkalinity Total $CaCO_3$	mg/l		56-61
00610	Ammonia N	mg/l		
01000	Arsenic	mg/l		
00310	BOD_5	mg/l		
01027	Cadmium	mg/l		
00940	Chlorides	mg/l		
01032	Chromium-Hex	mg/l		
01034	Chromium-Tot	mg/l		
00340	COD	mg/l		
01042	Copper	mg/l		
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron-Total	mg/l		
01051	Lead	mg/l		
01055	Manganese	mg/l		
71900	Mercury-Total	ppb		
01067	Nickel	mg/l		
00630	NO_2+NO_3 - N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH (lab)		[illegible]	
32730	Phenol	mg/l		
00665	Phosphorus-P	mg/l		
00530	Solids Susp	mg/l		
70301	Solids (total)	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	mg/l		
74055	Fecal coliform	/100ml		
hexachlorocyclopentadiene			✓	1.6%
				[illegible]

W[illegible] LAB [illegible]

Seymour 5222 June 19, 1979

5222-1 Sample from Lift Station

5222-3 Waste spilled west of drum crusher. - Reddish Brown

222-4 - S. end of ditch along Pink Palace Road

222-5 S.W. of Pink Palace along same Road.

222-6 S. end of hypalon lined ditch

5222-7 White powder along road south of laboratory

5222-8 Brown liquid along road south of lab

5222-9 Black waste west of lab in ditch

5222-10 Pit south of concrete slab west of Tall Bldg,

5222-12 Pooled waste south of "G" series tank
Priority #12 "cresol" ?
5222-13 - Solvent waste along dump station road

— J.R. — 11 samples in first jars [illegible]

Metal Analysis of Waste Materials from Seymour Recycling, Seymour 522

Two waste material samples were digested each in approximately 25 ml concentrated nitric acid. The wet digest materials were evaporated close to dryness and then 25 ml concentrated nitric acid was added to each sample. The same procedure was followed with the evaporation of the sample close to dryness. This process was repeated three to four times. The final solutions were prepared by dissolving the wet digest in approximately 10 ml concentrated nitric acid and diluting to 100 ml with deionized, distilled water. These solutions were analyzed for cadmium, chromium, lead, and nickel using an IL 951 atomic absorption spectrophotometer.

Data + Results:

Sample Number	Int. Volume	Final Volume
5222-4	100 ml	100 ml
5222-6	100 ml	100 ml

Cadmium, Cd - 228.8 mμ Background Correction Air-Acetylene Flame
3.0 sec. integration time 5 runs

Cadmium Standard Concentration	Absorbance	Curve Programed
Blank	—	—
0.200 μg Cd/ml	0.058	0.200 μg Cd/ml
0.400 μg Cd/ml	0.112	0.404 μg Cd/ml
0.600 μg Cd/ml	0.156	0.591 μg Cd/ml
0.800 μg Cd/ml	0.204	0.808 μg Cd/ml
1.000 μg Cd/ml	0.243	0.998 μg Cd/ml

Sample Number	Concentration
5222-4	0.19 μg Cd/ml
5222-6	0.06 μg Cd/ml
0.600 μg Cd/ml	0.606 ± 0.007 RSD 1.13%

Metal Analysis of Waste Materials from [illegible] 5222-2
Chromium, Cr - 357.9 mμ Nitrous Oxide - Acetylene Flame
3.0 sec integration time 5 runs

Chromium Standard Concentration	Absorbance	Curve Program
Blank	—	—
1.00 μg Cr/ml	0.053	1.00 μg Cr/ml
2.00 μg Cr/ml	0.102	2.00 μg Cr/ml
3.00 μg Cr/ml	0.149	3.00 μg Cr/ml
5.00 μg Cr/ml	0.241	5.00 μg Cr/ml

Sample Number	Concentration
5222-6 1X	0.52 μg Cr/ml
3.00 μg Cr/ml	2.92 μg Cr/ml ± 0.05 RSD 1.68%
3.00 μg Cr/ml	2.89 μg Cr/ml ± 0.02 RSD 0.66%

Chromium Standard Concentration	Absorbance	Curve Program
Blank	—	—
1.00 μg Cr/ml	0.048	1.01 μg Cr/ml
2.00 μg Cr/ml	0.093	1.99 μg Cr/ml
3.00 μg Cr/ml	0.138	3.01 μg Cr/ml
5.00 μg Cr/ml	0.225	5.00 μg Cr/ml

Sample Number	Concentration
5222-4 2X	7.86 μg Cr/ml
3.00 μg Cr/ml	3.01 ± 0.02 RSD 0.67%

Metal Analysis of Waste Materials from Seymour Recycling, Seymour 5222

Lead, Pb - 283.3 mμ Background Correction Air-Acetylene Flame
3.0 sec. integration time 5 runs

Lead Standard Concentration	Absorbance	Curve Program
1.00 ug Pb/ml	0.028	1.01 ug Pb/ml
2.50 ug Pb/ml	0.067	2.49 ug Pb/ml
5.00 ug Pb/ml	0.129	5.00 ug Pb/ml
10.00 ug Pb/ml	0.246	10.00 ug Pb/ml
Blank	—	—

Sample Number	Concentration
5222-4	< 0.2 ug Pb/ml
5222-6	3.2 ug Pb/ml
5.00 ug Pb/ml	5.04 ± 0.02 RSD 0.43%
5.00 ug Pb/ml	4.99 ± 0.01 RSD 0.26%
5.00 ug Pb/ml	4.99 ± 0.03 RSD 0.62%

Oil sample
5222S 20X <2 ug Pb/ml
in MIBK

Nickel, Ni - 232.0 mμ Background Correction Air-Acetylene Flame
3.0 sec. integration time 5 runs

Nickel Standard Concentration	Absorbance	Curve Program
Blank	—	—
0.250 ug Ni/ml	0.026	0.260 ug Ni/ml
0.500 ug Ni/ml	0.048	0.491 ug Ni/ml
1.000 ug Ni/ml	0.092	1.002 ug Ni/ml
2.500 ug Ni/ml	0.210	2.500 ug Ni/ml

Sample Number	Concentration
5222-4	0.70 ug Ni/ml
5222-6	0.13 ug Ni/ml
1.00 ug Ni/ml	1.001 ± 0.015 RSD 1.49%
1.[illegible] ug Ni/ml	[illegible] RSD 1.3[illegible]

Lee Marrow
August 30, 197
[illegible]
[illegible]

WATER SAMPLE IDENTIFICATION SHEET

Sample site OLD STP Lift station

1. Below SBC - Seymour

Station Number 1

Sample Date 6 (Mo 11 12) 15 (Day 13 14) 79 (Yr 15 16) [✓ AM]/PM

Supervisor JmHunt

Collector(s) JmH

Delivered to lab 6 (Mo) 19 (Day) 79 (Yr) [✓ AM]/PM

By JmH

	Kind	Lot No	Amount
Preservatives Added	NONE		

Sample Chlorinated ____ Not Chlorinated ✓

	Field	Lab
No. of 1 Liter Plastic Bottles		
No. of 2 Liter Plastic Bottles		
No. of Bacteriological Bottles		
No. of Glass Jars or Bottles	1	
Total	1	

Standard Procedure Followed All Some None N.A.

NPDES Number ____ (1-7) Outfall ____ (8-10)

3 (17)
1 NPDES
2 SPC 19
3 WQ Study
4 Pollution complaint
5 Fish kill investigation

3 (18)
1 Industry
2 Sew. Public
3 Municipal
4 Federal
5 Public Water Supply
6 State Owned
7 Other

1 (19) Sample Type
1 Grab
2 24-hour comp
3 8-hour comp
4 24-hour flow comp
5 8-hour flow comp

____ (20) Sample volume

0 (21)
0 at outfall
1 above outfall
2 below outfall

____ (22 26) Stream miles from outfall

LAB INFORMATION

Lab No. 5222-1 Date 06 (Mo) 19 (Day) 79 (Yr) AM PM

Rec'd by DrPeterson

Temp. of sample when received RT

Comments

FIELD	PARAMETERS	UNIT		LAB DATA
30 32 00410	Alkalinity Total as CaCO3	mg/l		34-41
00610	Ammonia-N	mg/l		
01002	Arsenic	ug/l		
01022	Boron	mg/l		
01027	Cadmium	ug/l		
00940	Chloride	mg/l		
01032	Chromium Hex	ug/l		
01034	Chromium Tot	ug/l		
00335	COD	mg/l		
01042	Copper	ug/l		
00720	Cyanide CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron	ug/l		
01051	Lead	ug/l		
01055	Manganese	ug/l		
71900	Mercury	ug/l		
01067	Nickel	ug/l		
00630	NO2+NO3-N	mg/l		
00556	Oil & Grease	mg/l		
00400	pH	S.U.		
32730	Phenol	ug/l		
00665	Phosphorus-P	mg/l		
00530	Solids-Susp	mg/l		
[illegible]	Solids [illegible]	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	ug/l		
31616	Fecal coliform	/100 ml		
	Solvents		✓	

I. H.

WATER SAMPLE IDENTIFICATION SHEET

Sample Location Seymour Recycling-Seymour
the spilled W of the drum crusher
REDDISH BROWN, strong Solvent ODOR

Station Number 3

Sample Date 6 (Mo 11-12) 15 (Day 13-14) 79 (Yr 15-16) AM [✓ PM]

Supervisor J. M. Hunt

Collector(s) J. M. Hunt

Delivered to lab 6 (Mo) 19 (Day) 79 (Yr) [✓ AM] PM

By J. M. Hunt

	Kind	Lot No	Amount
Preservatives Added			
NONE			

Sample Chlorinated ____ Not Chlorinated ✓

	Field	Lab
No. of 1 Liter Plastic Bottles		
No. of 2 Liter Plastic Bottles		
No. of Bacteriological Bottles		
No. of Glass Jars or Bottles	1	
Total	1	

Standard Procedures Followed All Some None N.A.

NPDES Number ____ (1-5) Outfall ____ (6-10)

3 (17)
1 NPDES
2 SPCC
3 WQ Survey
4 Pollution complaint
5 Fish kill investigation

1 (18)
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 State operated
7 Other

1 (19) Sample Type
1 Grab
2 24 hour composite
3 8 hour composite
4 24 hour flow composite
5 8 hour flow composite

____ (20) Sample interval

0 (21)
0 at outfall
1 above outfall
2 below outfall

____ (22-26) Distance miles from outfall

LAB INFORMATION

Lab No. 5202-3 Date 06 (Mo) 19 (Day) 79 (Yr) AM PM

Rec'd by D. Peterson

Temp of sample when received RT

Comments

CODE	PARAMETER	UNIT		LAB DATA
28-32 00410	Alkalinity Total as CaCO3	mg/l		34-41
00610	Ammonia	mg/l		
01002	Arsenic	ug/l		
00310	BOD5	mg/l		
01027	Cadmium	ug/l		
00940	Chlorides	mg/l		
01032	Chromium Hex	ug/l		
01034	Chromium Tot	ug/l		
00335	COD	mg/l		
01042	Copper	ug/l		
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron	ug/l		
01051	Lead	ug/l		
01055	Manganese	ug/l		
71900	Mercury	ug/l		
01067	Nickel	ug/l		
00630	NO2+NO3-N	mg/l		
00550	Oil & Grease	mg/l		
00400	pH	S.U.		
32730	Phenol	ug/l		
00665	Phosphorus-P	mg/l		
00530	Solids Sus	mg/l		
00500	Solids Tot	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	ug/l		
31616	Fecal coliform	100 ml		
	Solvents	✓		

I.H

WATER SAMPLE IDENTIFICATION SHEET

Sample Site Seymour Recycling - Seymour
END of Ditch Along Pink Palace Rd.

Station Number 4

Sample Date 6 15 79 AM [✓ PM]
Mo. 11-12 Day 13-14 Yr. 15-16

Supervisor J M Hunt

Collector(s) J. M. Hunt

Delivered to lab 6 19 79 [✓ AM] PM
Mo. Day Yr.

By JMH

	Kind	Lot No.	Amount
Preservatives Added			
NONE			

Sample Chlorinated ____ Not Chlorinated ✓

	First	Last
No. of 1 Liter Plastic Bottles		
No. of 2 Liter Plastic Bottles		
No. of Bacteriological Bottles		
No. of Glass Jars or Bottles	1	
Total	1	

Standard Procedure Followed All Some No

NPDES Number ____ Outfall ____

3 (17)
1 NPDES
2 SPC 13
3 WQ Study
4 Pollution complaint
5 Fish kill investigation

1 (18)
1 Industrial
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 State Operated
7 Other

1 (19)
Sample Type
1 Grab
2 24-hour comp
3 8-hour comp
4 24-hour flow comp
5 8-hour flow comp

____ (20) Sample Interval

0 (21)
0 - at outfall
1 - above outfall
2 - below outfall

____ (22-24) Sewer miles from outfall

LAB INFORMATION
Lab No. 5222-4 Date 6 19 1979
Mo. Day Yr. AM PM
Rec'd by
Temp of sample when received RT

Comments

CODE	PARAMETERS	UNIT		LAB DATA
30-32 00410	Alkalinity Total as CaCO3	mg/l		34-41
00610	Ammonia-N	mg/l		
01002	Arsenic	ug/l		
00310	BOD5	mg/l		
01027	Cadmium	[illegible]	✓	0.19 ug/ml
00940	Chlorides	mg/l		
01032	Chromium-Hex	ug/l	✓	
01034	Chromium-Tot	[illegible]	✓	7.86 ug/ml
00335	COD	mg/l		
01042	Copper	ug/l	✓	
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron	ug/l		
01051	Lead	[illegible]	✓	< 0.2 ug/ml
01055	Manganese	ug/l		
71900	Mercury	ug/l		
01067	Nickel	[illegible]	✓	0.70 ug/ml
00630	NO2+NO3-N	mg/l		
00550	Oil & Grease	mg/l		
00400	pH (lab)	S.U.		
32730	Phenols	ug/l	✓	
00665	Phosphorus-P	mg/l		
00530	Solids-Susp	mg/l		
00500	Solids-Total	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	ug/l	✓	
31616	Fecal coliform	/100 ml		

I H

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling – Seymour
ch Along Pink Palace Rd – S.W.
of Pink Palace

Station Number 5

Sample Date 6 (Mo 11-12) 15 (Day 13-14) 79 (Yr 15-16) AM [✓ PM]

Supervisor J M Hunt

Collector(s) J M H

Delivered to lab 6 (Mo) 19 (Day) 79 (Yr) [✓ PM]

By J M H

	Kind	Lot No	Amount
Preservatives Added			
NONE			

Sample Chlorinated ____ Not Chlorinated ✓

	Field	Lab
No. of 1 Liter Plastic Bottles		
No. of 2 Liter Plastic Bottles		
No. of Bacteriological Bottles		
No. of Glass Jars or Bottles	1	
Total	1	

Standard Procedure Followed All Some No

NPDES Number ____ Status ____

3 (17)
1 NPDES
2 SPC-15
3 WG Study
4 Pollution complaint
5 Fish kill investigation

1 (18)
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 State Operated
7 Other

1 (19)
Sample Type
1 Grab
2 24-hour comp
3 8-hour comp
4 24-hour flow comp
5 8-hour flow comp

____ (20) Sample Interval

0 (21)
0 at outfall
1 above outfall
2 below outfall

____ (22-24) Sewer mile from outfall

LAB INFORMATION

Lab No 5222-5 Date 06 (Mo) 19 (Day) 79 (Yr) AM PM

Rec'd by D. Peterson

Temp of samples when received RT

Comments

CODE	PARAMETER	UNIT		LAB DATA
20-33 00410	Alkalinity [illegible]	mg/l		34-41
00610	Ammonia	mg/l		
01002	Arsenic	ug/l		
00310	BOD5	mg/l		
01027	Cadmium	ug/l	✓	
00940	Chloride	mg/l		
01032	Chromium Hex	ug/l	✓	
01034	Chromium Tot	ug/l	✓	
00335	COD	mg/l		
01042	Copper	ug/l	✓	
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron	ug/l		
01051	Lead		✓	< 2 μg/ml in HNO3
01055	Manganese	ug/l		
71900	Mercury	ug/l		
01067	Nickel	ug/l	✓	
00630	NO2+NO3-N	mg/l		
00556	Oil & Grease	mg/l		
00400	pH	S.U.	✓	
32730	Phenol	ug/l	✓	
00665	Phosphorus-P	mg/l		
00530	[illegible]	mg/l		
00500	[illegible]	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zn	ug/l	✓	
31616	Fecal Coliform	/100 ml		

J.H:

WATER SAMPLE IDENTIFICATION SHEET

Sample Site Seymour Recycling - Seymour
end of hypalon-Lined Ditch

Station Number 6

Sample Date 6 (Mo. 11-12) 15 (Day 13-14) 79 (Yr. 15-16) AM/[✓ PM]

Supervisor J. M. Hunt

Collector(s) J. M. Hunt

Delivered to lab 6 (Mo.) 19 (Day) 79 (Yr.) [✓ AM]/PM

By J M H

	Kind	Lot No.	Amount
Preservatives Added NONE			

Sample Chlorinated ____ Not Chlorinated ✓

	Field	Lab
No. of 1 Liter Plastic Bottles		
No. of 2 Liter Plastic Bottles		
No. of Bacteriological Bottles		
No. of Glass Jars or Bottles	1	
Total	1	

Standard Procedure Followed All Some None

NPDES Number ____ (1-7) Outfall ____ (8-10)

3 (17)
1 NPDES
2 SPC-15
3 WQ Study
4 Pollution complaint
5 Fish kill investigation

1 (18)
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Systems
6 State operated
7 Other

1 (19) Sample Type
1 Grab
2 24-hour comp.
3 8-hour comp.
4 24-hour flow comp.
5 8-hour flow comp.

____ (20) Sample Interval

0 (21)
0 at outfall
1 above outfall
2 below outfall

____ (22-24) Stream miles from outfall

LAB INFORMATION

Lab No. 5222-6 Date 06 (Mo.) 19 (Day) 79 (Yr.) AM/PM
Rec'd by Ed Peterson
Temp. of sample when received RT.

Comments

CODE	PARAMETER	UNITS		LAB DATA
30-32 00410	Alkalinity Total CaCO3	mg/l		34-41
00610	Ammonia-N	mg/l		
01002	Arsenic	ug/l		
00310	BOD5	mg/l		
01027	Cadmium	ug/l	✓	0.06 ug/ml
00940	Chlorides	mg/l		
01032	Chromium Hex	ug/l	✓	
01034	Chromium Tot	[illegible]	✓	0.52 ug/ml
00335	COD	mg/l		
01042	Copper	ug/l		
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron	ug/l		
01051	Lead	[illegible]	✓	3.2 ug/ml
01055	Manganese	ug/l		
71900	Mercury	ug/l		
01067	Nickel	[illegible]	✓	0.13 ug/ml
00630	NO2+NO3-N	mg/l		
00550	Oil & Grease	mg/l		
00400	pH	SU		
32730	Phenol	ug/l		
00665	Phosphorus-P	mg/l		
00530	Solids-Susp.	mg/l		
00500	Solids-Total	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	ug/l		
31616	Fecal coliform	100 ml		

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling - Seymour White Powder Along Road S of Laboratory Station No 7

Sample Date 6 (MO 11-12) 15 (DAY 13-14) 79 (YR 15-16) A.M. [✓ P.M.]

Supervisor JmH/mwT

Collector(s) JmH

Delivered to lab 6 (MO) 19 (DAY) 79 (YR) [✓ A.M.] P.M.

by J mH

NPDES NO ______ (1-7) OUTFALL ______ (8-10)

3 (17)
1 NPDES
2 SPC 16
3 WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18) Category of Discharge
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 State operation
7 Other

1 (19) Sample Type
1 Grab
2 24-hour comp
3 8-hour comp
4 24-hour flow comp
5 8-hour flow comp

0 (21)
0 at outfall
1 above outfall
2 below outfall

____ (20) Sample Interval

____ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No ______ by ______

Rec'd ______ (MO DAY YR) ______ A.M. P.M.

by ______

CONTAINER TYPE & SIZE

glass [✓ 500 ml] 1 liter total no 1

plastic 2 liter other ______

Standard method followed? all some none

TEMPERATURE & PRESERVATION

Samples rcvd on ice? all some none

Chlorinated samples? all some none

Standard method followed? all some none

Teflon capped Foil capped Solvent rinsed

TEMP ______ ° ______ ° ______ °

Reported out

CODE	PARAMETER	UNIT		LAB DATA
34-38 00410	Alkalinity Total CaCO3	mg/l		36-41
00610	Ammonia N	mg/l		
01000	Arsenic	mg/l		
00310	BOD5	mg/l		
01027	Cadmium	mg/l		
00940	Chloride	mg/l		
01032	Chromium Hex	mg/l		
01034	Chromium Tot	mg/l		
00340	COD	mg/l		
01042	Copper	mg/l		
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron-Total	mg/l		
01051	Lead	mg/l		
01055	Manganese	mg/l		
71900	Mercury-Tot.	PPB		
01065	Nickel	mg/l		
00630	NO2+NO3 N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH (lab)			
32730	Phenol	mg/l		
00665	Phosphorus-P	mg/l		
00530	Solids Susp	mg/l		
70300	Solids total	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	mg/l		
74055	Fecal coliform	/100ml		
			7	

I K

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling - Seymour Brown Substance Along Road S. of LABORATORY Station No 9

Sample Date 6 / 15 / 79 (MO 11-12, DAY 13-14, YR 15-16) AM [✓ PM]

Supervisor JmHunt

Collector(s) JmH

Delivered to lab 6 / 19 / 79 (MO, DAY, YR) [✓ AM] PM

by JmH

NPDES NO ______ (1 - 7) OUTFALL ______ (8 - 10)

3 (17)
1. NPDES
2. SPC 18
3. WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18) Category of Discharge
1. Industry
2. Semi-Public
3. Municipal
4. Federal
5. Public Water Supply
6. Water operation
7. Other

1 (19) Sample Type
1. Grab
2. 24-hour comp
3. 8-hour comp
4. 24-hour flow comp
5. 8-hour flow comp

______ (20) Sample interval

0 (21)
0 - at outfall
1 - above outfall
2 - below outfall

______ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No ______ by ______

Rec'd ______ (MO DAY YR) ______ A.M. P.M.

by ______

CONTAINER TYPE & SIZE

glass [✓ 500 ml] 1 liter total no 1

plastic [illegible] liter other ______

Standard method followed? all some none

TEMPERATURE & PRESERVATION

Samples iced or cool? all some none

Chlorinated samples? all some none

Standard method followed? all some none

Teflon capped ______° Foil capped ______° Solvent rinsed ______°

TEMP

Reported out

CODE	PARAMETER	UNIT		LAB DATA
34-37 00410	Alkalinity Total CaCO3	mg/l		38-41
00610	Ammonia-N	mg/l		
01002	Arsenic	mg/l		
00310	BOD_5	mg/l		
01027	Cadmium	mg/l		
00940	Chloride	mg/l		
01032	Chromium-Hex	mg/l		
01034	Chromium-Tot	mg/l		
00340	COD	mg/l		
01042	Copper	mg/l		
00720	Cyanide-Tot	mg/l		
00951	Fluoride	mg/l		
01045	Iron-Total	mg/l		
01051	Lead	mg/l		
01055	Manganese	mg/l		
71900	Mercury-Total	PPB		
01067	Nickel	mg/l		
00630	NO_2+NO_3-N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH (lab)			
32730	Phenol	mg/l		
00665	Phosphorus-P	mg/l		
00530	Solids Susp	mg/l		
70300	Solids (total)	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	mg/l		
74055	Fecal coliform	/100ml		
			?	

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling - Seymour
BLACK viscous waste west of Lab
IN Ditch Station No. 9

Sample Date 6 (MO 11-12) 15 (DAY 13-14) 79 (YR 15-16) A.M. [✓ P.M.]

Supervisor J mdHunT

Collector(s) JMH

Delivered to lab 6 (MO) 19 (DAY) 79 (YR) [✓ A.M.] P.M.

by JMH

NPDES NO ______ (1 - 7) OUTFALL ______ (8 - 10)

3 (17)
1 NPDES
2 SPC 15
3 WQ Study
4 Pollution complaint
5. Fish kill investigation

1 (18) Category of Discharge
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 State operation
7 Other

1 (19) Sample Type
1 Grab
2 24-hour comp
3 8-hour comp
4 24-hour flow comp
5 8-hour flow comp

____ (20) Sample Interval

0 (21)
0 - at outfall
1 - above outfall
2 - below outfall

____ (23-26) Stream miles from outfall

LAB INFORMATION

Lab No ______ by ______

Rec'd ______ (MO DAY YR) ______ A.M. P.M.

by ______

CONTAINER TYPE & SIZE

glass [✓ 500 ml] 1 liter total no. 1
plastic 2 liter other ______

Standard method followed? all some none

TEMPERATURE & PRESERVATION

Samples refrig. or iced? all some none
Chlorinated samples? all some none
Standard method followed? all some none
Teflon capped Foil capped Solvent rinsed
TEMP ____° ____° ____°

Reported out

CODE	PARAMETER	UNIT		LAB DATA
36-35 00410	Alkalinity Total $CaCO_3$	mg/l		36-41
00610	Ammonia-N	mg/l		
01002	Arsenic	mg/l		
00310	BOD_5	mg/l		
01027	Cadmium	mg/l		
00940	Chloride	mg/l		
01032	Chromium-Hex	mg/l		
01034	Chromium-Tot	mg/l		
00340	COD	mg/l		
01042	Copper	mg/l		
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron-Total	mg/l		
01051	Lead	mg/l		
01055	Manganese	mg/l		
71900	Mercury Total	PPB		
01067	Nickel	mg/l		
00630	NO_2-NO_3 N	mg/l		
00560	Oil & Grease	mg/l		
00403	pH (lab)			
32730	Phenol	mg/l		
00665	Phosphorus-P	mg/l		
00530	Solids Susp	mg/l		
70300	Solids (total)	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	mg/l		
[illegible]	Fecal coliform	/100ml		

I H.

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling - Seymour S. of concrete slab Located W of Tall Bldg - Reddick Cdg Station No. 10

Sample Date 6 (MO 11-12) 15 (DAY 13-14) 79 (YR 15-16) 3 A.M. [✓ P.M.]

Supervisor J M Hunt

Collector(s) JMH

Delivered to lab 6 (MO) 19 (DAY) 79 (YR) [✓ A.M.] P.M.

by JMH

NPDES NO. ______ (1-7) OUTFALL ______ (8-10)

3 (17)
1 NPDES
2 SPC 18
3 WQ Study
4 Pollution complaint
5 Fish kill investigation

1 (18) Category of Discharge
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 Share operation
7 Other

1 (19) Sample Type
1 Grab
2 24-hour comp.
3 8-hour comp.
4 24-hour flow comp.
5 8-hour flow comp.

____ (30) Sample interval

0 (31)
0 at outfall
1 above outfall
2 below outfall

____ (33-36) Stream miles from outfall

LAB INFORMATION

Lab No ______ by ______

Rec'd ______ (MO DAY YR) ______ A.M. P.M.

by ______

CONTAINER TYPE & SIZE

glass [✓ 500 ml] 1 liter total no 1
plastic 2 liter other ______

Standard method followed? all some none

TEMPERATURE & PRESERVATION

Samples refrig or iced? all some none
Chlorinated samples? all some none
Standard method followed? all some none
Teflon capped Foil capped Solvent rinsed
TEMP ____° ____° ____°

Reported out

CODE	PARAMETER	UNIT		LAB DATA
24-29 00410	Alkalinity Total CaCO$_3$	mg/l		36-41
00610	Ammonia N	mg/l		
01002	Arsenic	mg/l		
00310	BOD$_5$	mg/l		
01027	Cadmium	mg/l		
00940	Chloride	mg/l		
01032	Chromium Hex	mg/l		
01034	Chromium Tot	mg/l		
00340	COD	mg/l		
01042	Copper	mg/l		
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron Total	mg/l		
01051	Lead	mg/l		
01055	Manganese	mg/l		
71900	Mercury-Total	PPB		
01067	Nickel	mg/l		
00630	NO$_2$+NO$_3$-N	mg/l		
00550	Oil & grease	mg/l		
00403	pH (lab)			
32730	Phenol	mg/l		
00665	Phosphorus P	mg/l		
00530	Solids Susp	mg/l		
70300	Solids (total)	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	mg/l		
[illegible]	Fecal coliform	/100ml		
	Solvents		✓	

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling - Seymour
Pooled waste south of "6" series tanks.
Station No. 12

Sample Date 6 (MO, 11-12) 15 (DAY, 13-14) 79 (YR, 15-16) AM [✓ PM]

Supervisor J M Hunt

Collector(s) J M Hunt

Delivered to lab 6 (MO) 19 (DAY) 79 (YR) AM PM

by JMH

NPDES NO ______ (1-7) OUTFALL ______ (8-10)

3 (17)
1 NPDES
2 SPC 16
3 WQ Study
4 Pollution complaint
5 Fish kill investigation

1 (18) Category of Discharge
1 Industry
2 Semi-Public
3 Municipal
4 Federal
5 Public Water Supply
6 Waste operation
7 other

1 (19) Sample Type
1 Grab
2 24-hour comp
3 8-hour comp
4 24-hour flow comp
5 8-hour flow comp

______ (20) Sample Interval

2 (21)
0 at outfall
1 above outfall
2 below outfall

______ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No ______ by ______

Rec'd ______ (MO DAY YR) ______ A.M. P.M.

by ______

CONTAINER TYPE & SIZE

glass [✓ 500 ml] 1 liter total no 1
plastic 2 liter other ______

Standard method followed? all some none

TEMPERATURE & PRESERVATION

Samples refrig or iced? all some none
Chlorinated samples? all some none
Standard method followed? all some none
Teflon capped Foil capped Solvent rinsed
TEMP ______° ______° ______°

Reported out

CODE	PARAMETER	UNIT		LAB DATA
36-39 00410	Alkalinity Total (as CaCO$_3$)	mg/l		36-41
00610	Ammonia-N	mg/l		
01000	Arsenic	mg/l		
00310	BOD$_5$	mg/l		
01027	Cadmium	mg/l		
00940	Chloride	mg/l		
01032	Chromium Hex	mg/l		
01034	Chromium Tot	mg/l		
00340	COD	mg/l		
01042	Copper	mg/l		
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron Total	mg/l		
01051	Lead	mg/l		
01055	Manganese	mg/l		
71900	Mercury Total	PPB		
01067	Nickel	mg/l		
00630	NO$_2$+NO$_3$ N	mg/l		
00550	Oil & Grease	mg/l		
00403	pH lab			
32730	Phenol	mg/l		
00665	Phosphorus-P	mg/l		
00530	Solids Susp	mg/l		
00500	Solids total	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	mg/l		
74055	Fecal coliform	100ml		
	creosote and		✓	

I. H.

WATER SAMPLE IDENTIFICATION SHEET

Sample site Seymour Recycling-Seymour Solvent waste along dump site road R2ED Leaky drums?

Station No 12

Sample Date 6 (MO 11-12) 15 (DAY 13-14) 79 (YR 15-16) A.M. [✓ P.M.]

Supervisor J M Flint

Collector(s) J M Hunt

Delivered to lab 6 (MO) 19 (DAY) 79 (YR) [✓ A.M.] P.M.

by JMH

NPDES NO ______ (1 - 7) OUTFALL ______ (8 - 10)

3 (17)
1. NPDES
2. SPC 10
3. WQ Study
4. Pollution complaint
5. Fish kill investigation

1 (18) Category of Discharge
1. Industry
2. Semi-Public
3. Municipal
4. Federal
5. Public Water Supply
6. Agric operation
7. Other

1 (19) Sample Type
1. Grab
2. 24-hour comp
3. 8-hour comp
4. 24-hour flow comp
5. 8-hour flow comp

______ (20) Sample interval

D (21)
0 - at outfall
1 - above outfall
2 - below outfall

______ (22-26) Stream miles from outfall

LAB INFORMATION

Lab No ______ by ______

Rec'd ______ (MO DAY YR) ______ A.M. P.M.

by ______

CONTAINER TYPE & SIZE

glass [✓ 500 ml] 1 liter total no 1

plastic 2 liter other ______

Standard method followed* all some none

TEMPERATURE & PRESERVATION

Samples iced or cool* all some none

Chlorinated samples* all some none

Standard method followed* all some none

Teflon capped ° Foil capped ° Solvent rinsed °

TEMP ______ ______ ______

Reported out

CODE	PARAMETER	UNIT		LAB DATA
00-00 00410	Alkalinity Total $CaCO_3$	mg/l		00-01
00610	Ammonia-N	mg/l		
01002	Arsenic	mg/l		
00310	BOD_5	mg/l		
01027	Cadmium	mg/l		
00940	Chloride	mg/l		
01032	Chromium-Hex	mg/l		
01034	Chromium Tot	mg/l		
00340	COD	mg/l		
01042	Copper	mg/l		
00720	Cyanide-CN	mg/l		
00951	Fluoride	mg/l		
01045	Iron Total	mg/l		
01051	Lead	mg/l		
01055	Manganese	mg/l		
71900	Mercury Total	PPB		
01067	Nickel	mg/l		
00630	NO_2+NO_3 N	mg/l		
00560	Oil & Grease	mg/l		
00403	pH (lab)			
32730	Phenol	mg/l		
00670	Phosphorus-P	mg/l		
00530	Solids Susp	mg/l		
70300	Solids total	mg/l		
00945	Sulfate	mg/l		
00625	TKN	mg/l		
00680	TOC	mg/l		
01092	Zinc	mg/l		
74055	Fecal coliform	100ml		
	Solvents		✓	

ATTACHMENT 3

Further Testimony for the Record of
Mr. David D. Lamm
Regarding the Chemical Waste Management Cleanup Proposal

The question of the unacceptability of the Chemical Waste Management cleanup plan as expressed in the August 23, 1982, memorandum from Ronald G. Blankenbaker, M.D., to Patrick Berger, Administrative Assistant, is delineated in the second paragraph of that memorandum. Specifically, the unacceptable provisions are identified as: not removing the tanks, only removing contaminated hot spots, doing nothing for surface water confinement or clay cap, no extent of contamination study, and releasing the generators from liability prior to the determination of the extent of groundwater and subsurface contamination.

Indiana State Board of Health staff had no indication that this was a draft document that could be changed. As it turned out, it was, and many of our concerns were addressed and the others we found we could live with as the complete enforcement strategy and Consent Decree unfolded.

David D. Lamm
Dec 25, 1983

ATTACHMENT 4

Indiana Landfills
Waste Management Inc.

1. Prairie View Landfill, St. Joseph County, permit # 71-2, located on Shively Road, three miles south of Wyatt.
   Responsible party: Mr. Charles Hartsell, PO Box 128, 15505
   Shively Road, Wyatt, Indiana 46595

2. Wheeler Landfill, Porter County, permit # 64-3, located on Jones Road and State Road 130.
   Responsible party: Mr. Donald Ehman, Indiana Waste Systems,
   PO Box 181, Wheeler, Indiana 46393

* 3. LaPorte County Landfill, LaPorte County, permit # 46-1, located one-half mile west of US 421 on County Road 300N.
   Responsible party: Mr. Gene Kliziak, 10501 West 300 North
   Michigan City, Indiana 46360

4. Danville Landfill, Hendricks County, permit # 32-2, located on County Road 75S, one-half mile west of County Road 150E.
   Responsible party: Mr. John Barbush, PO Box 17, 122 Twin
   Bridges Road, Danville, Indiana, 46122

Parent responsible party for all four landfills:
Mr. William Schubert, Waste Management Systems, Inc., 3003 Butterfield Road, Oak Brook, Illinois 60521

* LaPorte County Landfill, LaPorte County, is owned/leased by the County of LaPorte and operated contractually by Waste Management, Inc.

INDIANA ENVIRONMENTAL MANAGEMENT ACT

IC 13-7, As Amended

ARTICLE 7. ENVIRONMENTAL MANAGEMENT

Ch. 1. General Provisions
Ch. 2. Indiana Environmental Management Board
Ch. 3. Duties of the Board
Ch. 4. Acts Prohibited
Ch. 5. Powers of the Board
Ch. 6. Transfer of Powers and Duties
Ch. 7. Rules, Regulations and Standards
Ch. 8. Noise
Ch. 8.5. Hazardous Waste
Ch. 8.6. Hazardous Waste Facility Site Approval
Ch. 8.7. Hazardous Substances Emergency Response Trust Fund
Ch. 9. Atomic Radiation
Ch. 10. Permits
Ch. 11. Enforcement
Ch. 12. Emergency Procedures
Ch. 13. Penalties
Ch. 14. Public Water Supplies
Ch. 15. Connection and Regionalization
Ch. 16. Miscellaneous Provisions
Ch. 16.5. Polychlorinated Biphenyls and Terphenyls
Ch. 17. Judicial Review
Ch. 18. Appropriation

Chapter 1. General Provisions

13-7-1-1 Purpose

Sec. 1. The purpose of this article is to provide for evolving policies for comprehensive environmental development and control on a statewide basis; and to unify, coordinate, and implement programs to provide for the most beneficial use of the resources of the state and to preserve, protect and enhance the quality of the environment so that, to the extent possible, future generations will be ensured clean air, clean water, and a healthful environment.

13-7-1-2 Definitions

Sec. 2. The definitions contained herein shall govern construction of this article unless specific provisions or the context requires otherwise;

(1) "Board," as used herein, shall mean the Indiana Environmental Management Board created under Chapter 2 of this article.

(2) "Agencies," as used herein, shall mean the Stream Pollution Control Board created by IC 13-1-3 and the Air Pollution Control Board created by IC 13-1-1.

(3) "Person" means an individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, municipal corporation, city, school city, town, school town, school district, school corporation, county, any consolidated unit of government, political subdivision, state agency, or any other legal entity.

(4) "Air pollution" means the presence in, or the threatened discharge into, the atmosphere of one (1) or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious or to threaten to be injurious to human health, plant or animal life, or to property, or to interfere unreasonably with the enjoyment of life or property.

(5) "Contaminant" means any solid, semisolid, liquid or gaseous matter, any odor, any radioactive material, any pollutant as defined in the Federal Water Pollution Control Act, any hazardous waste as defined by the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), or any combination thereof, from whatever source, which is injurious to human health, plant or animal life, or to property, or which interferes unreasonably with the enjoyment of life or property, or which is otherwise violative of the provisions of this article or regulations adopted pursuant thereto.

(6) "Garbage" means all putrescible animal solid, vegetable solid and semisolid wastes resulting from the processing, handling, preparation, cooking, serving, or consumption of food or food materials.

(7) "Open burning" means the combustion of any matter in the open or in an open dump.

(8) "Open dump" means the consolidation of solid waste from one (1) or more sources or the disposal of solid waste at a single disposal site that does not fulfill the requirements of a sanitary landfill or other land disposal method as may be prescribed by law or regulations, all without cover and without regard to the possibilities of contamination of surface or subsurface water resources; the term "open dumping" means the act of disposing of solid waste at an open dump.

(9) "Public water supply" means any wells, reservoirs, lakes, rivers, source of supply, pumps, mains, pipes, facilities, and structures through which water is obtained, treated as may be required, and supplied through a water distribution system to at least one hundred (100) persons per day for drinking, domestic, or other purposes, including state-owned facilities.

(10) "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, sludge from a water supply treatment plant, sludge from an air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, or from community activities; however, the term "solid waste" does not include:

(A) solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges, which are point sources subject to permits under Section 402 of the federal Water Pollution Control Act Amendments (P.L. 92-500);

(B) source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954; or

(C) manures or crop residues, returned to the soil at the point of generation as fertilizers or soil conditioners as part of a total farm operation.

(11) "Solid waste management" means the systematic administration of activities which provide for the collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of solid waste.

(12) "Sewage" shall be construed, as used herein, to mean all refuse, human excreta, garbage, waste or waste products, or any combination thereof, potentially capable of contaminating the environment and which may be collected and carried off in any pipe, ditch, or channel.

(13) "Sewage works" means, individually or collectively, those constructions or devices used for collecting, pumping, treating, and disposing of sewage, or for the recovery of byproducts from sewage.

(14) "Water pollution" means alteration, actual or threatened, of the physical, thermal, chemical, biological, bacteriological, or radioactive properties of any waters; or such discharge or threatened discharge of any contaminant into any waters as does, or can, create a nuisance or render such waters harmful, detrimental, or injurious to public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate uses, or to livestock, wild animals, birds, fish or aquatic life.

(15) "Waters" means such accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this state, but the term does not include any private pond, or any off-stream pond, reservoir or facility built for reduction or control of pollution or cooling of water prior to discharge unless the discharge therefrom causes or threatens to cause water pollution.

(16) "Disposal" means the discharge, deposit, injection, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

(17) "Hazardous waste" means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

(A) cause, or significantly contribute to, an increase in mortality or increase in serious irreversible, or incapacitating reversible, illness; or

(B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

(18) "Hazardous waste facility" means a plant or site where hazardous waste is subjected to treatment, storage, disposal, or recovery.

(19) "Manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(20) "Recovery" means obtaining materials or energy for commercial or industrial use from solid waste or hazardous waste.

(21) "Storage," when used in connection with hazardous waste, means the containment of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste.

(22) "Treatment," when used in connection with hazardous waste, means any method, technique, or process, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. This term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

(23) "Federal Water Pollution Control Act" means the Federal Water Pollution Control Act, as amended and in effect on January 1, 1980, including the amendments made by the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500), and by the Clean Water Act of 1977 (P.L. 95-217).

(b) Other terms not defined in this article shall have the meanings ascribed to them in IC 13-1-1, IC 13-1-3, IC 13-1-6, IC 13-2-7, IC 16-1-26, or IC 36-9, or if not defined in the above cited portions of the Indiana Code, then the meaning ascribed by common usage.

(c) The terms defined in subsection (a) of this section shall have the meanings herein ascribed to them and shall be deemed to modify the definition of similar terms in other chapters including those cited above, and for all purposes the definitions herein contained shall prevail.

(d) In this article the present tense includes the past and future tenses, and the future tense the present unless otherwise provided. The singular includes the plural and the plural the singular.

Chapter 2. Indiana Environmental Management Board

13-7-2-1 Creation

Sec. 1. There is hereby created a state environmental quality board to be known as the "Indiana Environmental Management Board."

13-7-2-2 Membership

Sec. 2. (a) The powers and duties of the Environmental Management Board shall be vested in an eleven (11) member board with initial terms being staggered as indicated; all subsequent appointments shall be for four (4) years except as noted in section 3 of this chapter. The Secretary of the Indiana State Board of Health, the Director of the Department of Natural Resources, the Director of the Division of Economic Planning, Department of Commerce, and the Chairman of the respective Air and Stream Pollution Control Boards shall serve as ex officio members of said board. The remaining six (6) members of said board shall consist of two (2) representatives of the public-at-large who shall have demonstrated an interest in and knowledge of environmental management, one (1) of whom shall serve an initial term of one (1) year, the other an initial term of two (2) years; one (1) representative of municipal government whose initial term shall be for two (2) years; one (1) representative of agriculture whose initial term shall be for three (3) years; one (1) representative of labor whose initial term shall be for four (4) years; and one (1) representative of industrial management whose initial term shall be for four (4) years. The Secretary of the State Board of Health shall appoint from the staff of the State Board of Health a technical secretary to the board.

(b) In making appointments to the board, attention shall be paid to including among the appointees individuals who are knowledgeable in appropriate scientific areas such as geology, hydrology, biology, biochemistry, and soil science.

13-7-2-3 Appointment of members

Sec. 3. Members of the board shall be appointed by the Governor for four (4) year terms and shall serve until their successors are duly appointed and qualified, unless sooner removed for cause by the Governor. It shall be incumbent upon the Governor to make appointments to the board within ninety (90) days of the effective date of this article. He may seek such advice and counsel as he may require in the selection of the membership of the board but need not be limited thereby. In the event of a vacancy occurring during the term of service of any board member, the Governor shall, within sixty (60) days, appoint a replacement to fill the unexpired term, said appointee being from the same discipline in which the vacancy occurred.

13-7-2-4 Adoption of rules

Sec. 4. The board shall be, and hereby is, empowered to adopt rules for its own governance, including the annual election of a chairman and one or more vice chairmen.

13-7-2-5 Meetings; compensation

Sec. 5. (a) The board shall meet at least once every two (2) months, and the date, time and place of the next meeting shall be fixed prior to the adjournment of each meeting.

(b) The board may hold such special meetings as required. Such special meetings shall be held on call of the chairman. The chairman shall call a special meeting upon written request of three (3) members of the board. Board members shall receive written notice of such special meetings, posted in the United States mails three (3) days in advance of the meeting. Notice may be waived in writing, and attendance at a meeting shall constitute a waiver.

(c) Six (6) members shall constitute a quorum. However, a majority vote of the membership of the board shall be required for:

(1) adoption of any statewide environmental management program;

(2) promulgation of rules or standards; or

(3) orders or determinations based on appeals to proceedings on the issuance of permits.

(d) Members of the board shall receive mileage, per diem and subsistence fixed in accordance with the statutory provisions for such boards when discharging their assigned duties as members thereof.

13-7-2-6 Technical secretary; duties

Sec. 6. The technical secretary shall be charged with the staff administrative operation of the board, keep an accurate and complete record of all board proceedings and coordinate the activities of the various programs for which the board shall be the ultimate authority in environmental management matters. Further, he shall make recommendations to the board. The technical secretary shall expedite the functions of the board and advise the board in its exercise of all of its authority.

13-7-2-7 Preparation of budget

Sec. 7. The technical secretary shall prepare the proposed budget for the board and for the agencies. The budget shall be reviewed and approved by the board either as submitted or as revised by the board.

13-7-2-8 Initial meeting

Sec. 8. Within thirty (30) days after the appointment of the board, the State Health Commissioner shall call the initial meeting of the board for purposes of organization and the conduct of other business.

13-7-2-9 Stream pollution control board and air pollution control board not affected

Sec. 9. The Stream Pollution Control Board, and the Air Pollution Control Board are continued as now established. The powers and duties of said boards and programs shall not be affected except as specifically altered or changed in this article or pursuant to this article. The establishment of priorities and coordination of the functions and services of such agencies are hereby conferred on the board. All staff personnel shall remain under the jurisdiction of the classified service as established by IC 4-15-2-1.

13-7-2-10 Water and air pollution agencies designated

Sec. 10. (a) The Stream Pollution Control Board is hereby designated as the water pollution agency for the state for all purposes of the Federal Water Pollution Control Act.

(b) The environmental management board is hereby designated as the solid waste agency for the state for all purposes of the Federal Solid Waste Disposal Act, Public Law 89-272, as amended.

(c) The Air Pollution Control Board is hereby designated as the air pollution agency for the state for all purposes of the Federal Clean Air Act, Public Law 88-206, as amended.

(d) The board and agencies are hereby authorized to take all action necessary or appropriate to secure to the state the benefits of such federal acts.

Chapter 3. Duties of the Board

13-7-3-1 Duties of board

Sec. 1. It shall be the duty of the board to:

(a) Evolve and keep constantly updated a comprehensive, long-term program for the state for the development and control of the environment to ensure for the present and future generations the best possible air, water and land quality;

(b) Evolve standards and develop regulations, and adopt the same, to preserve, protect and enhance the quality of the environment, to assure the accomplishment of the comprehensive long-term program; and procure compliance with its standards and regulations;

(c) Conduct a program of continuing surveillance and inspection of solid waste management sites, public water supplies, actual or threatened sources of environmental pollution by contamination, radiation, odor or noise; and

(d) Encourage and assist local units of government in developing programs and facilities for air, water, radiation, odor, and noise pollution control, water or wastewater treatment, water resource development, and solid waste management.

Chapter 4. Acts Prohibited

13-7-4-1 Specific acts prohibited

Sec. 1. No person shall:

(a) Discharge, emit, cause, allow, or threaten to discharge, emit, cause or allow any contaminant or waste including any noxious odor, either alone or in combination with contaminants from other sources, into the environment or into any publicly-owned treatment works in any form which causes or would cause pollution which violates or would violate regulations, standards, or discharge or emission requirements adopted by the board or the appropriate agency pursuant to this article;

(b) Increase the quantity or strength of any discharge of contaminants into the waters, or construct or install any sewer or sewage treatment facility or any new outlet for contaminants into the waters of this state without prior approval of the appropriate agency;

(c) Deposit any contaminants upon the land in such place and manner which creates, or which would create, a pollution hazard;

(d) Dump or cause or allow the open dumping of garbage or of any other solid waste in violation of regulations adopted by the appropriate agency;

(e) Dispose of solid waste in, upon, or within the limits of or adjacent to any public highway, state park, state nature preserve or recreation area, or in or immediately adjacent to any lake or stream except in proper containers provided for sanitary storage of such solid waste, or except as a part of a sanitary landfill operation or other land disposal method approved by the appropriate agency;

(f) Construct, install, operate, conduct, or modify, without prior approval of the board or an appropriate agency, any equipment or facility of any type which may cause or contribute to pollution or which may be designed to prevent pollution: however, the board or the appropriate agency may approve experimental uses of such equipment, facility, or pollution control device as is deemed necessary for the further development of the state of the art of pollution control;

(g) Conduct any salvage operation or open dump by open burning or burn or cause or allow the burning of any solid waste in a manner which violates either IC 13-1-1 or the regulations adopted by the board or by an appropriate agency;

(h) Commence construction of any proposed hazardous waste facility without having first filed an application for and received a construction permit from the board;

(i) Commence or engage in the operation of any hazardous waste facility without having first obtained an operation permit from the board;

(j) Deliver any hazardous waste to a hazardous waste facility which is not approved or which does not hold an operation permit from the board; or

(k) Cause or allow the transportation of a hazardous waste without a manifest whenever a manifest is required by law.

Chapter 5. Powers of the Board

13-7-5-1 Additional powers of board and agencies

Sec. 1. In addition to the powers conferred upon the board and the agencies in other chapters of this article, the board and the agencies shall have the power to:

(a) Perform all of the duties imposed upon it;

(b) Have a designated agent upon presentation of proper credentials enter upon any private or public property to inspect for and investigate possible violations of this article or regulations promulgated by the board or the appropriate agency or to enter by directive of the board or the appropriate agency;

(c) Adopt rules and regulations consistent with the intent and purposes of this article, defining standards and implementing provisions of this article;

(d) Establish and administer such monitoring and reporting requirements as are deemed necessary by the board or agency to carry out the duties and exercise the power of the board and agencies under this article, and prescribe fees for the filing of such reports;

(e) Act for the state in the adoption of standards pursuant to any federal law regarding environmental protection and, notwithstanding any other provisions of this article, the board or appropriate agency shall have the authority to establish and apply effluent limitations, standards, procedures, permit conditions and other requirements at least as stringent as the applicable effluent limitations, standards, procedures, permit conditions and other requirements of the Federal Water Pollution Control Act and regulations adopted pursuant thereto;

(f) Represent the state in all matters pertaining to plans, procedures, or negotiations for interstate compacts or other governmental arrangements for environmental protection; conduct, convoke, attend, or participate in conferences or hearings, official or unofficial, within or without this state, concerning any matter within the scope of the power and duties of the board or the appropriate agency;

(g) Accept and receive, on behalf of the state, any gifts or other funds made available to the state from any source for purposes of this article, or for air or water pollution control, or other environmental protection activities, surveys or programs;

(h) Adopt regulations governing the testing, and use of any chemical, or any other substance used to remove, disperse, or otherwise rid the waters of this state of oil or any residual product of petroleum;

(i) Require quarterly written reports from the state chemist on his activities;

(j) Specify conditions under which, or geographical areas in which, the discharge of certain types of waste will not be permitted;

(k) Employ or contract for such legal, professional, and other personnel and assistance as may be necessary for efficient performance of duties imposed by this article;

(l) Proceed in any court of competent jurisdiction, by appropriate action, to enforce any order of the board or agency; to collect any penalties or fees; or to procure or secure compliance with the provisions of this article or any other law which the board or agencies have the duty or power to enforce, or to enforce or procure compliance with any regulation or standard of the board or agencies.

Chapter 6. Transfer of Powers and Duties

13-7-6-1 State board of health; certain powers transferred

Sec. 1. All of the powers and duties now vested in the State Board of Health under: (1) the refuse disposal act, IC 19-2-1; (2) the waste water treatment control act, IC 13-1-6; (3) the water resources research act of 1965, IC 13-2-7; and (4) the sanitary water supply act, IC 16-1-26, are hereby transferred to the board.

13-7-6-2 State board of health; agreement of transfer

Sec. 2. Whenever the board and the State Board of Health find that it would promote the purposes of this article to transfer any powers, duties or staff of the State Board of Health to this board, a written agreement of transfer, ratified by resolution of both boards and approved by the Governor, shall effect the transfer. The Indiana State Board of Health as presently constituted, its powers, duties, and authority, shall not be affected in any manner by the provisions of this article except as powers or duties are transferred under section 1 of this chapter, or as powers, duties or staff may be transferred under section 2 of this chapter.

13-7-6-3 Stream pollution control board and air pollution control board to retain all powers and duties

Sec. 3. The agencies (the Stream Pollution Control Board and the Air Pollution Control Board) shall continue to exercise all powers and perform all duties now imposed upon them in the same manner as prior to the enactment of this article, except as their powers and duties are modified by this article.

13-7-6-4 Resolution of transfer

Sec. 4. The board at any time may, by resolution approved by its members, transfer any duties or powers vested in it to the agencies.

13-7-6-5 Delegation of particular functions

Sec. 5. The board at any time, by resolution approved by its members, may delegate the performance of particular functions, such as the conduct of hearings, to an agency or designated individuals.

13-7-6-6 Record of actions taken; confidential information

Sec. 6. The technical secretary of the board or agencies shall maintain a record of the actions taken pursuant to this chapter. Such board or agencies' records, issued permits, permit applications, and related documentation filed with the board or agencies and records, reports, and other information obtained pursuant to the recording, reporting, monitoring, sampling, information, entry, inspection, investigation, and copying requirements of this article shall be available to public inspection and copying in the office of such technical secretary during regular business hours; Provided, That notwithstanding any other provisions of this article, upon showing satisfactory to such technical secretary by any person that such records, reports, permits, permit applications, documentation, or information, or any part thereof (other than effluent or emission data) would, if made public, divulge methods or processes entitled to protection as trade secrets of such person, such technical secretary shall consider, treat, and protect such trade secret, records, reports, or information, or part thereof as confidential; Provided further, however, That any such records, reports, or information accorded confidential treatment may be disclosed or transmitted to other officers, employees, or authorized representatives of this state or of the United States concerned with carrying out or implementing this article or when relevant in any proceeding related to enforcement.

13-7-6-7 Assignment of rule making power

Sec. 7. Notwithstanding any provision of this article, wherever a duty was imposed upon or power granted to one of the agencies under the provisions of laws existing prior to this article, then such duty or power shall be exercised by such agency. The board may assign to either of the agencies, under this chapter, the making of rules, regulations and standards in any area not now provided for by law, or the board may directly exercise such power until sucn time as a specific agency for the exercise thereof may be created.

Chapter 7. Rules, Regulations and Standards

13-7-7-1 Adoption

Sec. 1. (a) The board or an agency may adopt, repeal, rescind, or amend rules of procedure, regulations and standards by proceeding in the manner prescribed in IC 4-22-2-1 to IC 4-22-2-11.

(b) The rules of procedure, regulations and standards adopted by an agency shall be approved by the board before the same shall become effective.

(c) The board, or an agency with the approval of the board, may designate by resolution a single member of the board or agency, or any other individual, to hold a hearing on behalf of such board or agency, on rules of procedure, regulations or standards, or enforcement, or any other hearing. Any such person so conducting a hearing shall report to the board his findings and recommendations, and the appropriate order thereon shall be entered by the board or agency after review.

(d) Before a rule proposed by the environmental management board is submitted for publication in the Indiana Register under IC 4-22-2-4, the environmental management board shall submit a copy of the proposed rule to the executive board of the state board of health. The executive board of the state board of health shall review the proposed rule and submit written comments on it to the environmental management board before the date set for a hearing on the proposed rule under IC 4-22-2-4. The written comments submitted by the executive board of the state board of health shall be made part of the record of the proceedings conducted in connection with the proposed rule, and the written comments shall be considered at the public hearing held on the proposed rule under IC 4-22-2-4.

13-7-7-2 Regulations

Sec. 2. (a) Any regulation or standard may make different provisions as required by varying circumstances and conditions for different contaminant sources and for different geographical areas, and may be made applicable to sources outside this state causing, contributing to, or which could cause or contribute to environmental pollution in this state; and may make provision for abatement standards and procedures respecting occurrences or emergencies or pollution, or on other short-term conditions constituting an acute danger to health or to the environment.

(b) In approving regulations and establishing standards, the board or an agency shall take into account all existing physical conditions and the character of the area affected; past, present and probable future uses of the area, including the character of the uses of surrounding areas; zoning classifications; the nature of the existing air quality or existing water quality, as the case may be; technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality; and economic reasonableness of measuring or reducing any particular type of pollution. The board and the agencies shall take into account the right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal or aquatic life, or to the reasonable enjoyment of life and property.

13-7-7-3 Proposals for regulations or standards

Sec. 3. Any person may present written proposals for the adoption, amendment, or repeal of regulations or standards. Any such proposal shall be supported by a statement of reasons and accompanied by a petition signed by at least two hundred (200) persons. If the board finds the proposal is not plainly devoid of merit, and does not deal with a subject on which a hearing was held within the previous six (6) months of the submission of the proposal, it will give notice and hold a hearing thereon.

13-7-7-4 Hearings

Sec. 4. (a) Whenever a substantive regulation or standard has a statewide application, hearings may be held at more than one place. At least twenty (20) days prior to the scheduled date of the hearing, the board or agency shall give notice of the date, time, place and purpose of such hearing by public advertisement in a newspaper of general circulation in Marion County, and in any other area of the state where a hearing is to be held. Written notice of the hearing shall be given to such persons as directed by the board or an agency. Copies of the proposed regulations shall be available to any person upon written request.

(b) All hearings shall be open to the public, and reasonable opportunity to be heard with respect to the subject of the hearing shall be afforded to any person. All testimony taken at the hearing shall be recorded. The transcript of the hearing and any written submissions to the board at the hearing shall be open to public inspection, and copies shall be made available to any person upon payment of the cost of reproducing the original.

(c) Any person heard or represented at a hearing or requesting notice shall be given written notice of the action of the board with respect to the subject thereof.

13-7-7-5 Duties of board or agency

Sec. 5. Without limiting the generality of the regulatory authority of this article, the board or agency may prescribe:

(a) Standards or requirements for discharge or emission, specifying the maximum permissible short-term and long-term concentrations of various contaminants of the air, water, or land;

(b) Procedures for the administration of a system of permits for:

(1) the discharge of any contaminants; or

(2) the construction, installation, or modification of any facility, equipment or device which may be designed to control or prevent pollution; or

(3) the operation of any facility, equipment or device to control or to prevent pollution.

(c) Standards and conditions for the use of any fuel or vehicle determined to constitute an air pollution hazard;

(d) Standards for the filling or sealing of abandoned water wells, water holes, and drainage holes in order to protect ground water against contamination;

(e) Alert criteria and abatement standards for pollution episodes or emergencies constituting an acute danger to health or to the environment, including priority lists for terminating activities which contribute to the hazard, whether or not such activities would meet all discharge requirements of the agencies under normal conditions;

(f) Requirements and procedures for the inspection of any equipment, facility, vehicle, vessel, or aircraft that may cause or contribute to pollution;

(g) Requirements and standards for equipment and procedures for monitoring contaminant discharges at their sources, for the collection of samples, and for the collection, reporting, and retention, in accordance with record retention schedules adopted under IC 5-15-5.1, of data resulting from such monitoring;

(h) Standards or requirements to control the discharge of or to control the pretreatment of contaminants introduced or discharged into publicly-owned treatment works.

13-7-7-6 Variances

Sec. 6. Whenever any person who is affected by any regulation or standard established by the board or an agency deems the imposition of such regulation or standard to him would impose an undue hardship or burden upon him, such person may apply to the board or appropriate agency for a variance from such regulation or standard. The board or an agency may hold a hearing upon the application. If the board or an agency determines that immediate compliance with any regulation or standard would impose an undue hardship or burden upon the applicant, the board or agency may grant a variance from the regulation or standard for any period not exceeding one (1) year.

Chapter 8. Noise

13-7-8-1 Regulations and standards

Sec. 1. The board may adopt regulations and standards prescribing limitations on noise emission. In establishing such regulations and standards, the board may prescribe that no person shall emit or cause to be emitted any noise which unreasonably interferes with any lawful business or activity or is injurious to the health or well-being of any person. The board may adopt regulations and standards as to equipment and procedures for monitoring noise and the collection and retention of data resulting from such monitoring and the reporting of the same to the board.

Chapter 8.5. Hazardous Waste

13-7-8.5-1

Sec. 1. In addition to its general duties under this article, the board shall regulate and require the proper and safe transportation, treatment, storage, and disposal of any hazardous waste that is generated in or transported into this state.

13-7-8.5-2

Sec. 2. The technical secretary shall maintain records and, by means of a system of recordkeeping, tabulate the volume, nature, and location of hazardous wastes generated, stored or disposed of within this state. Because of the potential relationship between hazardous wastes and proprietary processes of hazardous waste producers and operators of hazardous waste facilities, the technical secretary shall, in accordance with IC 13-7-6-6, insure that trade secrets disclosed to the technical secretary, the board or any authorized representative of the board, are not otherwise disclosed without the consent of the person or as required by law.

13-7-8.5-3

Sec. 3. (a) The board shall by regulation develop criteria for determining hazardous waste, as provided under IC 13-7-7. In developing such criteria, the board shall determine whether any waste to be or being disposed of:

(1) presents immediate or persistent hazards to man or wildlife;

(2) is resistant to natural degradation or detoxification; or

(3) is bioconcentrative, flammable, reactive, toxic, corrosive or infectious in addition to any other harmful characteristics.

(b) The board shall compile and maintain a listing of wastes which have been determined to be hazardous:

(1) under the criteria described in subsection (a); or

(2) by regulation of the United States environmental protection agency.

Such listing shall be issued in accordance with IC 4-22-2. However, the board may, by resolution, issue an emergency rule to declare any waste determined to be hazardous under this section. The resolution issuing such an emergency rule shall be in effect for ninety (90) days from the date of its adoption, and may be extended by resolution of the board for one (1) additional ninety (90) day period. The resolution issuing such an emergency rule, or extending such rule for an additional ninety (90) day period, is an exception to the definition of rule in IC 4-22-2-3. The emergency rule is of no effect after ninety (90) days, or one hundred eighty (180) days if extended, from the date of its adoption unless it is promulgated as a rule under IC 4-22-2.

(c) The board shall consider actions taken by adjoining states and the federal government for purpose of uniform criteria.

13-7-8.5-4

Sec. 4. The board shall adopt regulations on the proper and safe transportation, treatment, storage and disposal of hazardous wastes under the provisions of IC 13-7-7. Whenever possible such regulations should allow for variation in the state with regard to population density, climate and geology.

13-7-8.5-5

Sec. 5. (a) The board shall initiate, on or before January 1, 1982, permit programs for all hazardous waste facilities in accordance with the provisions under IC 13-7-10.

(b) The board shall issue permits for any hazardous waste facility constructed and operated in compliance with its regulations. Such regulations shall require without limitation:

(1) provision of contingency plans for effective containment and control of any emergency condition resulting from an unanticipated occurrence;

(2) satisfactory proof of the financial capability of the operator and owner of the facility;

(3) satisfactory submission of a plan for and financial assurance of closure and postclosure monitoring and maintenance of the facility;

(4) access to adequate testing facilities on or off site to verify the chemical and physical characteristics of the hazardous wastes stored, received or transferred; and

(5) provision and maintenance of liability insurance by the owner or operator through self-insurance or from an insurer licensed or eligible to insure facilities in this state for accidental occurrences in accordance with regulations of the board.

(c) The board shall adopt regulations on standards of financial assurance for closure and postclosure monitoring.

(d) Before allowing the operation of a sanitary landfill for the disposal of hazardous waste, the technical secretary and all the owners of the land upon which such landfill is located must execute and record a restrictive covenant upon the land involved. The instrument imposing the restrictive covenant shall be filed for record in the recorder's office in the county in which the landfill is located, by the board. The covenant shall state that the land has been or may be used as a landfill for disposal of hazardous waste and that neither the property owners, agents, or employees, nor any of their heirs, successors, lessees, or assignees shall engage in filling, grading, excavating, building, drilling, or mining on the property following the completion and closure of the landfill without authorization of the board or its successor. Before the board grants any authorization for the activities prohibited in the covenant, the technical secretary shall review the original design of the landfill, the type of operation, the hazardous waste deposited there, and the state of decomposition of such hazardous wastes and report his findings to the board.

(e) There is no requirement of a manifest for onsite transportation or permit for onsite treatment of a hazardous waste generated as a residual or secondary material from a manufacturing process if the waste is recycled, recovered or reused at the same site by the generator.

(f) The board may exempt the requirement for any permit for the storage, treatment, processing or disposal of solid or hazardous wastes by a mining operation if:

(1) the mining operation has a permit under IC 13-4; and

(2) the board determines that the department of natural resources of this state is operating a program of regulation of solid and hazardous wastes derived from mining operations which is equivalent to the regulatory program for those wastes under this article.

Sec. 5.1. (a) An application for a construction permit for a hazardous waste treatment, storage, or disposal facility shall include a closure plan. In addition, if hazardous waste is to be disposed of at the facility, the application shall also include a postclosure monitoring and maintenance plan.

(b) The closure plan shall include as a minimum:

(1) an estimate of the cost of closure;

(2) a description of the method of closure;

(3) possible uses of the land after closure;

(4) anticipated time before closure; and

(5) an estimate of time to complete closure.

(c) The postclosure monitoring and maintenance plan shall include as a minimum:

(1) an estimate of the cost of postclosure monitoring and maintenance for a period of thirty (30) years; and

(2) a description of the system to be employed for security, groundwater and leachate monitoring, sampling analysis, and periodic reporting.

(d) The board shall adopt by rule standards for closure and postclosure monitoring and maintenance plans and shall include a requirement for prior notice of closure and a time limit for completion of closure.

Sec. 5.2. Any individual, partnership, or corporation who or which has been convicted of a violation of this article and fined or imprisoned under IC 13-7-13-3 shall not be issued a permit to own or operate a hazardous waste facility.

13-7-8.5-6

Sec. 6. No provision of this chapter may be construed to prohibit disposal of solid waste or hazardous wastes at the site of production or generation, provided construction and operation permits have been obtained in accordance with this chapter.

13-7-8.5-7

Sec. 7. The board shall adopt a manifest form to accompany any hazardous waste from the point of its generation through treatment, storage or disposal. The manifest form shall be compatible with the federal form and shall be designed to eliminate the need of any person required to file such manifest in this state to file any other hazardous waste manifest form in connection with the same hazardous waste.

13-7-8.5-8

Sec. 8. (a) Enforcement of the provisions of this chapter shall be as authorized under IC 13-7-11.

(b) Emergency procedures under this chapter shall be as authorized under IC 13-7-12.

(c) Violations of the provisions of this chapter are subject to the penalties imposed by IC 13-7-13.

Chapter 8.6. Hazardous Waste Facility Site Approval

13-7-8.6-1

Sec. 1. The purpose of this chapter is to:

(a) provide for effective public participation in the hazardous waste facility siting process;

(b) ensure that the impacts of hazardous waste facilities on communities are addressed and weighed against the public need for such a facility in the state; and

(c) encourage technologies which (i) provide safe and effective alternatives to permanent entombment of hazardous wastes; or (ii) which reduce the volume or degree of hazard of wastes which must be permanently entombed.

13-7-8.6-2

Sec. 2. For the purposes of this chapter:

(a) "Authority" means the Indiana solid waste facility site approval authority created by this chapter.

(b) "Board" means the environmental management board or its designated agency.

(c) "Certificate" means a certificate of environmental compatibility issued under this chapter which certifies that a facility presents no unacceptable environmental risk.

(d) "Commercial hazardous waste facility" means a plant, structure or site at which hazardous waste, generated by:

(1) a person other than the owner or operator of the plant, structure or site; or

(2) the owner or operator of the plant, structure or site as a result of treatment or storage of wastes generated by persons other than the owner or operator;

is received for treatment, storage or disposal.

(e) "Solid waste" has the same meaning as in IC 13-7-1-2(10).

(f) "Hazardous waste" has the same meaning as in IC 13-7-1-2(17), and includes a waste determined to be a hazardous waste under IC 13-7-8.5-3(b).

(g) "Storage" means the containment of hazardous waste for a period greater than ninety (90) days.

(h) "Treatment" has the same meaning as in IC 13-7-1-2(22).

13-7-8.6-3

Sec. 3. (a) The Indiana solid waste facility site approval authority is created and constitutes a public instrumentality of the state. The exercise by the authority of the powers conferred by this chapter is an essential governmental function.

(b) The authority consists of five (5) statewide members appointed by the governor, and four (4) local members. The statewide members shall serve a term of four (4) years.

(c) A vacancy in the office of a member, other than by expiration, shall be filled in like manner as the original appointment for the remainder of the term for statewide members, and for the duration of the duties and responsibilities of the local members.

(d) In making appointments to the statewide membership the governor shall select residents of this state recognized around the state for their judgment, integrity, and credibility. One (1) member shall represent business and industry; one (1) shall represent labor; and one (1) shall represent agriculture. The fourth statewide member shall be a hydro-geologist who has practiced in this state for at least five (5) years. The fifth statewide member shall be a biologist, chemist, limnologist, or toxicologist and a member of:

(1) the science faculty of an institution of higher learning in this state; or

(2) the staff of scientists of an independent research organization in this state.

The governor may remove any statewide member for cause, and shall annually appoint one (1) of the statewide members as chairperson.

(e) Five (5) members (statewide or local) of the authority constitute a quorum for the authority to conduct business; however, the affirmative vote of a majority of the membership is necessary for a final decision on a certificate application. A vacancy in the membership of the authority does not impair the right of the quorum to act.

(f) All members of the authority shall be reimbursed for their actual expenses incurred in the performance of their duties. The members shall also receive a per diem allowance as determined by the state budget agency for attendance of authority meetings. All reimbursement for expenses shall be as provided by law.

(g) The four (4) local members shall be appointed from the county in which a proposed facility is to be located, as follows:

(1) two (2) residents of a city or town closest to or containing the proposed facility shall be appointed to the authority by the mayor of the city or the president of the town board; and

(2) two (2) residents of the unincorporated portion of the county in which the facility is to be located, one (1) of whom may be the county health officer, shall be appointed by the county commissioners of that county.

Whenever the affected city is a consolidated city of the first class, all four (4) local members shall be appointed by the mayor of that city. The local members shall serve until the certificate is granted or denied or no longer subject to their review. The authority constituted for a specific certificate application may be recalled to rehear an application upon an order from the Indiana court of appeals or the supreme court for a rehearing.

(h) No member of the authority may be a member or an employee of, or be associated with the board, or the state board of health, or the staffs of those agencies.

13-7-8.6-4

Sec. 4. (a) There is established within the authority an executive council which consists of the five (5) statewide members, and two (2) additional members appointed by the governor, one (1) a mayor of a city in this state or a president of a town board of a town in this state, and one (1) a county commissioner of a county in this state. The local members to the council shall serve a term of four (4) years, and shall not be appointed to serve on any authority under section 7 of this chapter and may not participate in any proceeding of the authority under this chapter. The duties and responsibilities of the local members of the council are limited to the duties and responsibilities of the council under this section. If a vacancy occurs in the office of a local member of the council, the governor shall appoint a successor to finish the term of this member.

(b) The executive council, in accordance with IC 4-22-2:

(1) shall adopt regulations governing the procedure to be used by the authority and other matters of operation; and

(2) may adopt regulations on siting criteria which are consistent with section 10 of this chapter.

(c) The executive council shall appoint a director of the authority who is qualified by experience, training, or both. In addition, the council may utilize such staff of the state board of health as is necessary. The salaries for the director and any staff are subject to confirmation by the state personnel board, budget agency, and the governor.

(d) A simple majority of the executive council is required for the conduct of council business.

(e) The executive council shall establish an application fee schedule based on the cost of reviewing applications.

(f) The statewide members shall be reimbursed for their actual expenses incurred in the performance of their duties on the executive council, and shall also receive a per diem allowance as determined by the state budget agency for attendance of executive council meetings.

(g) The council may appoint consultants to assist the authority in reviewing applications for certificates.

13-7-8.6-5

Sec. 5. (a) Any person who proposes to construct any hazardous waste disposal facility or any commercial hazardous waste facility may not begin construction of that facility until he has obtained a certificate of environmental compatability from the authority. A person may not apply for the certificate until he has obtained a construction permit for the facility under IC 13-7-8.5.

(b) The certificate issued by the authority under this chapter:

(1) does not exempt the certificate holder from the duty of obtaining any other state permits, except for the exemptions under section 13 of this chapter; and

(2) carries no presumption that the proposed facility complies with IC 13-7-8.5 or any other statute which qualifies this state to administer the Resource Conservation and Recovery Act of 1976 hazardous waste management program.

(c) The application for a certificate shall include:

(1) a determination of the existing hydrogeological characteristics specified in a hydrogeological report;

(2) a monitoring program consistent with the board regulations on ground water quality standards;

(3) an environmental assessment;

(4) an engineering plan including procedures for closure and postclosure monitoring; and

(5) information which addresses the considerations to be made by the authority under section 10(b).

The environmental assessment shall include, at a minimum, an evaluation of the proposed facility's impact on the air, water, and other natural resources of the state and shall also include an environmental failure mode assessment. The above data may be in the form required to obtain other necessary permits and certificates to minimize duplicative development and presentation of data.

(d) All documentation submitted under subsection (c) shall be taken as evidence for admission to the official record of each application.

13-7-8.6-6

Sec. 6. (a) When the authority receives an application for a certificate, the director shall, within thirty (30) calendar days after the date of receipt of the application for a certificate, mail written notice to the applicant whether or not the application is complete. If the application is not complete, the applicant shall have a reasonable period of time in which to complete the application. When the director mails the written notice to an applicant that the application is complete, he shall also immediately notify:

(1) the statewide members of the authority;

(2) the board of county commissioners of the county in which the proposed facility is to be located;

(3) the president of the town board of the town or mayor of the city in which, or nearest to which, the proposed facility is to be located;

(4) the soil and water conservancy district under IC 13-3-1 in which the proposed facility is to be located; and

(5) any planning authority or agency created by state law and whose planning duties include the area in which the proposed facility is to be located.

(b) In addition to informing the authority and affected units of local government and any subdivision of state government, the director shall publish a notice of the receipt of the application for a certificate for a facility in a newspaper of general circulation in the county and in the city or town nearest to the proposed facility. The notice shall include:

(1) a map indicating the location of the proposed facility;

(2) a description of the procedure to be followed by the authority; and

(3) identification of a public place where a copy of the application and its accompanying documentation may be reviewed by the public and where copies of the documents may be made.

13-7-8.6-7

Sec. 7. (a) Within thirty (30) calendar days of the issuance of the notice of the filing of a complete application under section 6(a), the director shall notify by mail the board of county commissioners and the mayor of the city or the president of the town board that they have forty-five (45) days after receipt of this notice in which to select and appoint their respective representatives on the authority under section 3(g) of this chapter. Failure of the board of county commissioners or the mayor of the city or president of the town board to appoint the representatives within the specified period does not prohibit the authority from meeting to consider an application for a certificate.

(b) The board of county commissioners and the president of the town board or the mayor of the city shall notify the chairperson of the authority of the appointments to the authority and when they were made. When all the required appointments are made, the chairperson shall declare and notify the establishment of the authority and the date of its creation to all the authority members.

(c) Within ten (10) days after its creation, the authority shall meet upon the call of its chairperson, and shall:

(1) establish a timetable for consideration of the application. The timetable may not allow for final action of the authority to be made later than one hundred twenty (120) days after the first date the authority meets;

(2) establish a date for a public hearing on the application to be held in the city or town affected; and

(3) arrange for publication of notice of the public hearing in a newspaper of general circulation in the vicinity of the proposed disposal facility.

13-7-8.6-8

Sec. 8. The notice required under section 7(c) of this chapter shall:

(1) include a map indicating the location of the proposed facility;

(2) include a description of the procedure to be followed by the authority;

(3) identify a public place where a copy of the application and its accompanying documentation may be reviewed by the public and where copies of it may be made;

(4) identify the time and place for the public hearing at which the authority will receive public comment and input on the application; and

(5) be published at least thirty (30) days before the date of the public hearing.

13-7-8.6-9

Sec. 9. The authority shall accept oral or written testimony, or both, at the hearing, and shall accept written testimony received within fifteen (15) days after the hearing.

13-7-8.6-10

Sec. 10. (a) The authority shall review and evaluate the impact of the proposed facility on the county and on the town or city in which or near which the facility is to be located and make a final determination on the application.

(b) In making the review and evaluation under subsection (a), the authority shall consider the environmental and social impacts of:

(1) the risk and probable impact of an accident during transportation of hazardous wastes;

(2) the risk and probable impact of contamination of ground and surface water by leaching and runoff from the proposed facility;

(3) the risk of fire or explosion from improper storage and disposal methods;

(4) the impact on the county, town, or city in terms of the health, safety, cost, and consistency with local planning and existing development. To this end, the authority shall consider local ordinances, permits, or other legal requirements and their potential relationship to the proposed facility;

(5) the nature of the probable environmental impact, including the specification of the predictable adverse effects on the following:

(A) the natural environment and ecology;

(B) public health, population density and safety;

(C) scenic, historic, cultural, and recreational value; and

(D) water and air quality, and wildlife;

(6) an evaluation of measures to mitigate adverse effects; and

(7) concerns and objections raised by the public.

13-7-8.6-11

Sec. 11. (a) The authority shall also determine the number of local health and public safety officials and employees to be trained in order to provide emergency response service in connection with transportation of hazardous wastes to, and treatment, storage, and disposal of hazardous wastes at the proposed facility.

(b) In making the determination required by subsection (a), the authority shall consider the capability of local officials and employees to monitor procedures relating to the transportation, treatment, storage, and disposal methods at the proposed facility, and their ability to recognize and respond to accidents or improper methods or procedures involving the transportation, treatment, storage, and disposal of hazardous wastes.

(c) If the authority determines that there is a need for education and training of local officials and employees concerning the transportation, treatment, storage, and disposal of hazardous wastes, it shall provide as a condition to the granting of a certificate under this chapter that the owner of the proposed facility pay an annual fee to the board to be deposited in the fund created by subsection (f). The amount of the fee shall be based upon the estimated cost of the necessary education and training.

(d) The fee set by the authority pursuant to subsection (c) shall be used by the board to provide education and training only for local officials and employees in the geographic areas near the proposed facility. The education and training shall be designed to enable local officials and employees to evaluate the methods and procedures for transportation, treatment, storage, and disposal at a facility; to properly and safely respond to accidents; and to identify improper methods or procedures. Excess monies remaining from the fee may also be used for the purchase of safety equipment and materials which the board deems appropriate for the adequate performance of a local program of hazardous waste safety and response.

(e) The fee set pursuant to subsection (c) shall be reviewed and reestablished annually by the board as it deems necessary to meet the continuing education and training needs of the local officials and employees.

(f) There is established the hazardous waste training trust fund. All monies collected under subsections (c) and (d) and any monies accruing to the fund are hereby continuously appropriated to the fund to carry out the purposes of subsections (c) and (d). Any monies in the fund at the end of any fiscal year do not revert to the general fund of the state unless the fund is abolished.

13-7-8.6-12

Sec. 12. (a) The authority may mitigate specific concerns and objections to the facility by attaching conditions and limitations to the certificate for the facility, which actions do not constitute regulation under IC 13-7-8.5

(b) The authority shall, to the fullest extent practicable, integrate by stipulation the provisions of local ordinances, permits, or requirements in making a determination granting a certificate.

(c) The authority may seek the advice of any person in order to render a decision to ratify or deny a certificate.

(d) The proceedings of the authority, or any judicial review of its orders, determinations or decisions shall be in accordance with IC 4-22-1.

13-7-8.6-13

Sec. 13. (a) The certificate granted under this chapter preempts any local government zoning or other land use regulations, law, or ordinance, and the person obtaining the certificate shall not be required to apply for any approval by any regional, county, city, or town zoning board or authority.

(b) Local government shall not prohibit or unduly restrict:

(1) the transportation of hazardous waste through its area of jurisdiction which is enroute to a facility; or

(2) the treatment, storage, or disposal of hazardous waste at a facility within its jurisdiction.

13-7-8.6-14

Sec. 14. The authority shall grant or deny a certificate. If the authority denies the certificate, it shall state in writing to the applicant the findings which lead to that decision. The authority may state in writing the conditions or changes necessary to make the application acceptable if the authority anticipates that the applicant will reapply for a certificate for the same proposed facility. The authority shall issue a news release stating its action on an application for a certificate and distribute the release to news media in the affected area.

13-7-8.6-15

Sec. 15. No person who has a direct financial interest in the grant or the denial of an application under this chapter, or who would otherwise derive any direct personal benefit from the grant or denial of an application under this chapter, may vote on that application.

Chapter 8.7. Hazardous Substances Emergency Response Trust Fund.

13-7-8.7-1

Sec. 1. As used in this chapter:

"Hazardous substance" has the same meaning as in section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, in effect on January 1, 1981, and includes any substance determined to be hazardous under federal law as of January 1, 1981, or any substance determined to be hazardous by the board under this article.

"Response" and "remedial action" have the same meanings as in section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, in effect on January 1, 1981.

"Trust fund" means the hazardous substances emergency response trust fund created under section 2 of this chapter.

13-7-8.7-2

Sec. 2. There is established the hazardous substances emergency response trust fund. The purpose of the trust fund is to accumulate and maintain an amount within the maximum and minimum limits under section 5 of this chapter to:

(1) finance contracts or cooperative agreements between the state and the President of the United States pursuant to section 104(c)(3)(A) and section 104(c)(3)(C) to the Comprehensive Environmental Response, Compensation and

Liability Act of 1980 (P.L. 96-510), which contracts or agreements are a prerequisite to the President providing remedial action in this state under P.L. 96-510 in the event of a release of a hazardous substance. Such contracts or agreements must provide assurances deemed adequate by the President that:

(A) the state will assure all future maintenance of the removal and the remedial action provided by the expected life of such action as determined by the President; and

(B) the state will pay or assure payment of (i) ten percent (10%) of the cost of the remedial action, including all future maintenance, or (ii) at least fifty percent (50%) or such greater amount as the President may determine appropriate, of any sums expended in the response to a release at a facility that was owned at the time of any disposal of hazardous substances therein by the state or a political subdivision of the state; or

(2) provide state assistance in the form of supplies, materials, services and equipment to:

(A) prevent the discharge of a hazardous substance; or

(B) control, contain, isolate, neutralize, remove, store, or dispose of any hazardous substance already discharged into or on the air, land or waters of this state.

13-7-8.7-3

Sec. 3. The source of the trust fund under section 2 is:

(1) revenue produced by the levy under IC 6-6-6.6; and

(2) accrued interest and other investment earnings of the trust fund.

13-7-8.7-4

Sec. 4. The treasurer of the state shall invest the assets of the trust fund as a whole and in such investments as authorized by the constitution and the laws of this state.

13-7-8.7-5

Sec. 5. (a) The trust fund is a sinking fund which has a maximum allowable amount of ten million dollars ($10,000,000) and a minimum allowable amount of six million dollars ($6,000,000).

(b) If during the immediately preceding calendar year the trust fund is equal to or more than the maximum under subsection (a), the treasurer of the state shall certify to the department of revenue that the trust fund is at the statutory maximum.

(c) If during the immediately preceding calendar year the trust fund is less than minimum under subsection (a), the treasurer of the state shall certify to the department of revenue that the trust fund is at the statutory minimum.

13-7-8.7-6

Sec. 6. Expenditures from the fund shall be made by order of the board with the approval of the governor and the state budget agency.

Chapter 9. Atomic Radiation

13-7-9-1 Offenses

Sec. 1. No person shall construct or operate a nuclear powered generating facility or nuclear fuel reprocessing plant or increase the capacity of such an existing facility without a permit of the board.

13-7-9-2 Environmental feasibility report

Sec. 2. Any person proposing to construct a nuclear powered generating facility or a nuclear fuel reprocessing plant shall file with the technical secretary of the board an environmental feasibility report, on a form prescribed by the board, concurrently with the filing of the preliminary safety analysis required to be filed with the United States Atomic Energy Commission.

13-7-9-3 Public hearing

Sec. 3. (a) The board may conduct a public hearing at a time and place to be determined by it, on the environmental effects of the proposed operation.

(b) Any person affected by the proposed construction shall have the right to participate in the hearing to such an extent and in such manner as the board may prescribe.

13-7-9-4 Regulations and standards

Sec. 4. (a) The board may adopt regulations and standards to protect the citizens of Indiana from the hazards of radiation.

(b) Any permit required or any standard or discharge requirement established under this chapter shall specify the maximum allowable level of radioactive discharge.

(c) Any permit issued shall include a requirement for appropriate procedures of monitoring any discharge, and require a report thereof to the board.

Chapter 10. Permits

13-7-10-1 Discharge and facilities permits

Sec. 1. (a) The board or an appropriate agency may establish, by regulation, requirements and procedures for the issuance of permits to control water pollution, air pollution, solid waste, hazardous waste, noise emission, atomic radiation, and public water supplies, including but not limited to:

(1) permits to control or limit:

  (A) the discharge of any contaminants into state waters or into a publicly owned treatment works;

  (B) the emission of any contaminants into the atmosphere; or

  (C) the disposal of any contaminants onto or into the land;

(2) permits for the construction, installation, or modification of facilities, equipment, or devices:

  (A) for any public water supply;

  (B) to control or limit any discharge, emission or disposal of contaminants into the environment or into a publicly owned treatment works; or

  (C) for the storage, treatment, processing or disposal of solid waste or hazardous waste;

(3) permits for the operation of facilities, equipment or devices:

  (A) for any public water supply;

  (B) to control or limit the discharge, emission or disposal of any contaminants into the environment or into a publicly owned treatment works; or

  (C) for the storage, transportation, treatment, processing, or disposal of solid waste or hazardous waste.

(b) In regulations for the issuance of permits, the board or an agency may:

(1) prescribe standards for the discharge, emission or disposal of contaminants and the operation of any facility, equipment or device; and

(2) impose such conditions as deemed necessary to accomplish the purposes of this article.

13-7-10-2 Issuance

Sec. 2. (a) Any permit issued under this chapter may be issued for any period determined by the board or an agency to be appropriate but not to exceed five (5) years. The board or appropriate agency may delegate authority to issue or deny permits to its technical secretary or other duly designated staff member.

(b) A public hearing shall be held on the question of the issuance of an original or renewal permit for a hazardous waste disposal facility under IC 13-7-8.5, or on the question of the issuance of an original permit for a solid waste disposal facility upon:

(1) the request of the applicant;

(2) the filing of a petition requesting a public hearing and signed by one hundred (100) adult individuals who reside in the county where the proposed or existing facility is or is to be located, or who own real property within one (1) mile of the proposed or existing facility; or

(3) the motion of the board or an agency.

The public hearing authorized by this subsection does not constitute an administrative adjudication under IC 4-22-1.

(c) If the petition under subsection (b)(2) requests that the public hearing be conducted at a location within a county affected by a proposed permit, the board shall conduct that public hearing at that location.

(d) Whenever a permit is required by any regulation of the board or an agency pursuant to section 1 of this chapter for the construction, installation, operation or modification of any facility, equipment or device, said permit shall be issued after the board or agency staff has approved the plans and specifications and determined that such facility, equipment or device meets the requirement of the board or agency.

(e) Any issued permit or, if a permit is denied, notice of a permit denial shall be mailed in the United States postal system, postage prepaid, to the applicant at the address stated in his application. A permit shall be considered issued as of the date of mailing.

(f) When a person holding a valid permit concerning an activity of a continuing nature has made a timely and sufficient application for a renewal or a new permit in accordance with regulations of the board or appropriate agency, the existing permit does not expire until a final determination on the application has been made by the board or agency.

13-7-10-3 (repealed)

13-7-10-4 Hearing

Sec. 4. (a) If a permit is denied or if the permit is issued with terms and conditions which are objectionable to the applicant, the applicant may petition for a hearing before the board or appropriate agency within fifteen (15) days after the date of receipt of the permit or notice of a denial of permit. Such a petition which is timely and which complies with any other requirements of the board or appropriate agency shall be granted. A person aggrieved by the denial of a petition for hearing or by the denial or issuance of a permit after hearing may seek judicial review thereof pursuant to IC 13-7-17. For the purposes of making such an appeal, the date of denial of the petition for hearing under this section is the date of the final determination of the board or agency.

(b) At a hearing under this chapter, the petitioner has the burden of proving to the board or agency:

(1) why the permit should be issued; or

(2) why the terms and conditions of the permit are not justified or are otherwise invalid.

(c) The board or appropriate agency may designate a person to be a hearing officer. Except as provided in this section, hearings shall be conducted under IC 4-22-1.

13-7-10-5 Revocation of permits

Sec. 5. (a) Any permit granted by the board or an agency under this article may be revoked or modified by the board or agency, or designated staff member, for any of the following causes:

(1) violation of any condition of the permit;

(2) failure to disclose all of the relevant facts, or any misrepresentation made in obtaining the permit;

(3) changes in circumstances relating to the permit that require either a temporary or permanent reduction in the discharge of contaminants; or

(4) any other change, situation, or activity relating to the use of a permit which, in the judgment of the board or agency, is not consistent with the purposes of this article or regulation adopted under it.

(b) Any person aggrieved by the revocation or modification of a permit may appeal to the board or appropriate agency for a hearing within fifteen (15) days from the date of receipt of notice of revocation or modification. Pending the decision resulting from the hearing, the permit shall remain in force. In the case of revocation or modification of a permit by the board or an agency after such a hearing, the aggrieved person may appeal the revocation or modification order under IC 13-7-17.

Chapter 11. Enforcement

13-7-11-1 Investigations

Sec. 1. The board or an agency, or a designated member of the staff of the board or an agency, on receipt of information of any alleged violation of this article or of any regulation or standard adopted hereunder, may initiate an investigation.

13-7-11-2 Procedures

Sec. 2. (a) If an investigation discloses a possible violation, the technical secretary of the board, the appropriate agency, or a designated member of the staff, shall issue written notice, by registered or certified mail with return receipt requested, addressed to the alleged violator at the last known place of residence or place of business, together with a complaint specifying the provision of this article or the rule or regulation being violated. The complaint shall include a statement of the manner in which, and the extent to which, the alleged violation exists. The alleged violator may be required by the notice to answer the charges by written response before the hearing date or at a hearing before the board, an agency or designated member of the staff of the board or an agency, on a date not less than twenty (20) days after the receipt of the notice, except as may be otherwise provided herein. A copy of such notice and complaint may also be sent to any local governmental unit which may be an interested party to the action. The board or an agency may also provide that notice of hearing be published in a newspaper or newspapers. In the case of alleged violations occurring outside the state contributing to environmental damage in the state, the extra-territorial service-of-process provisions of the law and Indiana Rules of Procedure shall apply.

(b) Any person who has filed a complaint pursuant to IC 13-6-1-1 to, and including, 13-6-1-6 may, if the board or agency has either (a) refused to proceed, or (b) one hundred eighty (180) days have elapsed from the filing of the complaint without a final determination, proceed against the alleged violator, and in such event the board or agency shall not be joined as a party: Provided, however, the board or agency may intervene in any such proceeding.

(c) In hearings before the board or an agency under this chapter, the burden shall be on the complainant to show the alleged violation.

13-7-11-3 Hearings

Sec. 3. (a) All hearings under this article shall be held in accordance with IC 4-22-1-1 to 4-22-1-30.

(b) Any party to a hearing under this subsection may be represented by counsel and may make oral or written statements, offer testimony and cross-examine witnesses. All testimony taken shall be recorded. The transcript and any additional matter accepted for the record shall be open to public inspection, and copies thereof shall be made available to any person upon payment of the cost of reproduction.

13-7-11-4 Board as a party

Sec. 4. The board or an agency may appear as a party to all actions under this chapter.

13-7-11-5 Final orders

Sec. 5. (a) In accordance with the procedure provided in IC 4-22-1-12, or upon default in appearance of the respondent by the date specified in the notice, the board or agency shall issue and enter its final order or make any other final determination as it shall deem appropriate. The board or agency shall immediately notify the respondent of such order in writing by certified mail, return receipt requested.

(b) The board or agency's order may include direction to cease and desist from violations of the article, or regulations or standards adopted; may impose monetary penalties in accordance with this article; or may mandate corrective action to alleviate the violation. Any such order may also revoke a permit. The order, if it allows time during which to correct a violation, may provide for the posting of performance bond with surety or security acceptable to the board or agency to assure the correction of such violation within the time prescribed in any order.

Chapter 12. Emergency Procedures

13-7-12-1 Emergency order; notice; compliance; hearing

Sec. 1. (a) Whenever the technical secretary of the board and the secretary of the Indiana State Board of Health conclude that contamination of air, water or land in any area has reached the point where it constitutes a clear and present danger to the health and safety of persons in any area, such determination shall be immediately communicated to the Governor. The secretary of the Indiana State Board of Health, in concert with the technical secretary of the board, may request the Governor to declare that an emergency exists. The Governor may proclaim the existence of an emergency and order all persons causing or contributing to the causing of the contamination to reduce or discontinue immediately the emission and/or discharge of contaminants.

(b) Notice of any such emergency order shall be in writing wherever practicable, but if the Governor deems written notice is not practicable, notice may be given in such manner as determined by the Governor.

(c) Any person against whom an emergency order of the agencies has been issued shall immediately upon receiving notice of such order comply with its provisions. The Governor shall have power to enforce the order by any appropriate action.

(d) At any time within ten (10) days after the notice of an emergency order, the person or persons against whom such order was issued may petition the board for a hearing. A hearing shall be held within seventy-two (72) hours after receipt of the petition for hearing, or as soon thereafter as practicable, and petitioners may present proof that the emergency declaration or emergency procedures should be terminated in whole or in part.

(e) The procedures for emergency orders provided for herein are exclusive, and the procedures required by any other law need not be followed.

13-7-12-2 Suit on behalf of state to restrain pollution

Sec. 2. In addition to the authority contained in Chapter 12, section 1, above, and notwithstanding any other provision of this article, the technical secretary of the board or the agency, upon receipt of evidence that a pollution source or combination of sources, including an industrial user of a publicly-owned treatment plant, is presenting an imminent and substantial endangerment to the health of persons, or to the welfare of persons where such endangerment is to the livelihood of such persons, may bring suit on behalf of the state in the appropriate court to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge or introduction of contaminants causing or contributing to such pollution or to take such other action as may be necessary.

13-7-12-3

Sec. 3. (a) For the purposes of this section, "assistance" means supplies, materials, services and equipment to:

(1) prevent the discharge of any contaminant; or

(2) control, contain, isolate, neutralize, remove, store, or dispose of any contaminant already discharged into or on the air, land or waters of this state.

(b) The technical secretary of the board, the technical secretary of the appropriate agency, or a designated agent of such a technical secretary may order and provide assistance to abate or remedy an emergency, on private or public property, caused by the discharge, or impending discharge, of any contaminant into or on the air, land or waters of this state which poses an imminent and substantial danger to public health or the environment whenever:

(1) the assistance must be immediate to be efficacious; and

(2) Any person responsible for abatement or remedying the emergency:.

(A) cannot be determined or located; or

(B) has refused or failed to take prompt and effective action to abate or remedy the emergency.

(c) For the purpose of this section the technical secretary of the board, the technical secretary of the appropriate agency, or a designated agent of such a technical secretary is authorized to request the direct purchase of supplies, materials, services and equipment for immediate use without calling for bids under IC 4-13-2-10(b).

(d) In addition to any civil or criminal penalties under this article, the board or any agency may recover the cost of assistance provided under this section from any person responsible for the emergency by commencing a civil action in any court of competent jurisdiction. Officials who collect moneys under this subsection shall remit the moneys to the treasurer of the state of Indiana; and such moneys shall be deposited in the environmental management special fund.

(e) The board or the appropriate agency may accept on behalf of the state any reimbursement for assistance provided under this section from the federal government. Such reimbursements shall be remitted to the treasurer of the state of Indiana for deposit in the environmental management special fund.

(f) Notwithstanding any other provisions of this article, the authority granted under this section is in addition to, and may be exercised independently of, any other authority contained in this chapter.

Chapter 13. Penalties

13-7-13-1 Civil penalties

Sec. 1. (a) Any person who violates any provision of this article, or any regulation or standard adopted pursuant to this article, or who violates any determination or order of the board or an agency made pursuant to this article, shall be liable to a penalty not to exceed twenty-five thousand dollars ($25,000) per day of any violation, which may be recovered in a civil action commenced in any court of competent jurisdiction by the board or an agency, and also a request may be made in any such action that such person be enjoined from continuing such violation.

(b) Any person named in or directed by an emergency order of the board or an agency and who violates such order shall be liable for an additional penalty not to exceed five hundred dollars ($500) per hour of violation, which shall be assessed in an action brought by the board or an agency in any court of competent jurisdiction.

13-7-13-2 Special fund

Sec. 2. (a) All moneys collected pursuant to section 1 of this chapter and all fees collected under IC 13-7-8.6-4(e) shall be remitted by the officials collecting the same to the Treasurer of the State of Indiana, and credited to a special account of the state to be established by the Auditor of State and to be known as the "Environmental Management Special Fund." It is hereby declared to be the policy of the State of Indiana that the moneys on deposit in the Environmental Management Special Fund shall be used exclusively for the purposes of the board and the agencies. The revenues accruing to the fund are hereby appropriated to the state board of health for purposes of this article; however, any expenditures for projects authorized by the board must be approved by the governor and the state budget agency. All expenses of the Indiana solid waste facility site approval authority under IC 13-7-8.6 shall be paid from the fund with the approval of the governor and the budget agency.

(b) A certain amount of the fund shall be set aside by the state budget agency with the governor's approval to be expended for emergency purposes under IC 13-7-12-3 by the board, or its designee, without additional approval from the state budget agency or the governor.

13-7-13-3 Criminal penalties

Sec. 3. (a) Any person who intentionally, knowingly, recklessly or negligently violates this article, or any permit, condition, or limitation issued under this article, shall be punished by a fine of not less than two thousand five hundred dollars ($2,500) nor more than twenty-five thousand dollars ($25,000) per day of violation, or by imprisonment for not more than one (1) year, or by both. If the conviction is for a violation committed after a first conviction of such person under this subsection, punishment shall be a fine of not more than fifty thousand dollars ($50,000) per day of violation, or by imprisonment for not more than two (2) years, or both.

(b) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this article or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this article, shall upon conviction, be punished by a fine of not more than ten thousand dollars ($10,000), or by imprisonment for not more than six (6) months, or both.

For purposes of this section, "person" means, in addition to the definition in IC 35-41-1-2, any responsible corporate officer.

(c) Any person who knowingly:

(1) transports any hazardous waste to a facility which does not have an operation permit or approval to accept such waste;

(2) disposes, treats, or stores any hazardous waste without having obtained a permit therefor; or

(3) makes any false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used under this article with regard to hazardous waste;

shall be punished by a fine of not more than twenty-five thousand dollars ($25,000) for each day of violation, or by imprisonment not to exceed one (1) year, or both. If the conviction is for a violation committed after a first conviction of such person under this section, punishment shall be by a fine of not more than fifty thousand dollars ($50,000) per day of violation, or by imprisonment for not more than two (2) years, or both.

13-7-13-4

Sec. 4. (a) As used in this section: "Person" has the meaning set out in IC 35-41-1-2. "Hazardous waste" includes those wastes as defined by IC 13-7-1-2(17).

(b) Any person who intentionally transports, disposes, treats, or stores hazardous waste in violation of this article commits a Class D felony. However, notwithstanding IC 35-50-2-7(a), a person who is convicted of a Class D felony under this section may, in addition to the term of imprisonment established under IC 35-50-2-7(a), be fined not more than fifty thousand dollars ($50,000) for each day of violation.

(c) Notwithstanding subsection (b), if a person has committed a violation of subsection (b), the court may enter a judgment of conviction under IC 13-7-13-3. The court shall enter in the record, in detail, the reason for its action whenever it exercises the power granted in this subsection.

(d) A vehicle that is used to transport hazardous waste in the commission of an offense described in subsection (b) is subject to forfeiture under IC 34-4-30.1.

Chapter 14. Public Water Supplies

13-7-14-1 Submission of plans and specifications

Sec. 1. Plans and specifications for the construction, installation, or modification pertaining to sources, treatment, disinfection, storage or major distribution mains of any public water supply shall be submitted to the board or agency for approval, and a permit obtained as required by Chapter 10, before any such work is commenced. Such plans and specifications shall be complete and of sufficient detail to show all proposed construction, changes or modifications that may affect sanitary quality, mineral quality, or adequacy of the public water supply involved; and, when requested by the board, the applicant shall supply any additional data or material deemed appropriate by the board to a review of such plans and specifications. Nothing in this section shall be construed to preclude emergency repairs or procedures.

13-7-14-2 Approval of plans

Sec. 2. Plans and specifications submitted shall be approved if it is determined that they are satisfactory with respect to sanitary quality, including chlorination, if required, mineral quality and adequacy of the water supply, and meet the requirement of any regulation or standard adopted by the board governing the location, design, construction and operation and maintenance of public water supply installations, and changes or additions thereto.

13-7-14-3 Operation and maintenance

Sec. 3. All public water supplies shall be continuously operated and maintained so that water shall be safe in quality, clean and adequate in quantity, and of mineral characteristics satisfactory for ordinary domestic consumption.

13-7-14-4 Water samples

Sec. 4. All persons responsible for the operation of public water supplies shall submit samples of water for analysis and reports of operation pertaining to the sanitary quality, mineral quality, or adequacy of such supplies as the agency may request. Such reports of operation shall be verified under oath by the operator certified pursuant to IC 13-1-6.

Chapter 15. Connection and Regionalization

13-7-15-1 Sewage treatment; negotiation of terms

Sec. 1. If the board finds it is in the interest of the health, safety, convenience and welfare of the residents of any area, any person may be ordered to connect to or receive and treat sewage from any other person, or from an industry, shopping center, mobile home park, or housing development when such service and use will not result in irreparable injury to the receiving equipment, or make impossible the rendering of the service previously rendered to the users of such equipment. Such persons involved shall negotiate the terms for such connection and service. One of the terms for connection and service may be the granting by the receiver located in an unincorporated area of such service which is ordered as a result of this chapter to any municipality rendering such service a waiver against remonstrance in the event of annexation of the areas in which the service is to be rendered and that such waiver, if granted, shall be noted on the deed of each such property affected and duly recorded as provided by law and shall be considered a covenant running with the land. In the case of failure of such negotiations, any person involved or the board or agency may apply to the Public Service Commission for a determination of any question upon which no agreement was reached. Upon such application to the Public Service Commission, the Commission is authorized to, and shall determine, in accordance with its procedural methods, the reasonable and just charges and the compensation to be made for such connection and service, and enter an order designating the person or persons who shall perform the work of establishing the connection, and such other conditions as are necessary to effect the connection. Any person aggrieved by such order shall have all rights of appeal as in the case of other orders of the Public Service Commission.

13-7-15-2 Local governmental units; developing environmental facilities

Sec. 2. The board shall encourage and advise local governmental units referred to in Chapter 1, section 2(3) hereof in developing facilities or establishing standards for air, water, odor, and noise pollution control, water or wastewater treatment, water resource development, and solid waste disposal. Any facility or standard of such local governmental unit shall meet the minimum state requirements or standards as established by the board and the agencies.

If the board finds that such local governmental units have not developed plans which provide for adequate water supply, air, water, or wastewater treatment or solid waste disposal facilities, the board or an agency may hold a public hearing and if the facts support such conclusion, the board may order the affected local governmental units to proceed to form regional water, sewage, air or solid waste districts as may be necessary pursuant to the provisions of IC 19-3-1-1 through 19-3-1-44 or such other law or laws enacted by the General Assembly providing the procedure by which regional governmental functions involving units of local government is enumerated.

Chapter 16. Miscellaneous Provisions

13-7-16-1 Continuance of certain agencies and boards

Sec. 1. (a) For the purposes of succession to all functions, powers, duties, and obligations of the agencies, in whole or in part, or of all the functions, powers, duties and obligations of any other boards vested in the board or the agencies pursuant to the provisions of this article, or later transferred under this article, the board or agencies shall be deemed and held to be and constitute the continuation of such agencies or boards and not a different agency or board.

(b) Any business or other matter undertaken or commenced by the agencies or such other board, or pending before the agencies or such other board, pertaining to or connected with any function, power, obligation, or duty of such agencies or such other board, are hereby transferred and assigned on the effective date of this article, or subsequent transfer date, and may be conducted and completed by the proper agency or board.

(c) All rules, regulations, acts, determinations, and decisions of the agencies or such other boards pertaining to the functions transferred and assigned by or pursuant to this article to the board or the agencies shall continue in force and effect until modified or repealed.

13-7-16-2 Transfer of records

Sec. 2. All records, reports and data concerning any subject-matter transferred in accordance with this article to the board or an agency shall be transferred to the board or agency.

13-7-16-3 Public information and confidential data

Sec. 3. (a) All files, records, and data of the board and the agencies shall be open to reasonable public inspection and may be copied upon payment of the actual cost of reproducing the original, except for the following:

(1) information which constitutes a trade secret;

(2) information concerning secret manufacturing processes or confidential data submitted by any person and so accepted by the board or agencies;

(3) information privileged against introduction in judicial proceedings; and

(4) internal communications of the board and the agencies or with state agencies, boards or officials.

(b) Any person required by the board or the agencies to submit any information which in his opinion constitutes confidential data may so certify and request that such information or records be made available only for the confidential use of the board or the agencies. The board or the agencies shall give consideration to the request, and if the board or the agencies find that it would not be detrimental to the public interest to so treat such information, and it is otherwise in accord with the purposes of this article, the request may be granted, however, it shall initially be the duty of the person providing the confidential data to ask that any or all of the data be declared confidential, but the final duty on the declaration of confidentiality shall rest with the board or agencies.

(c) The board and the agencies shall:

(1) develop written procedures for the separate storage and security of files defined as confidential under this chapter; and

(2) promulgate rules requiring the execution of a confidentiality agreement with persons employed, contracted, or subcontracted by the board or agencies under IC 13-7-5-1(b) and (k) that

is enforceable by the state and by the submitter of the information.

(d) Any person employed, contracted, or subcontracted by the board or agencies who knowingly or intentionally discloses information which has been determined to be confidential under this section to any unauthorized person commits a Class A misdemeanor.

13-7-16-4 State agencies; reports

Sec. 4. Each agency, department and institution of the state shall report to the board any plans or activities which affect or may affect the environment of the state. The board shall review such reports and shall coordinate the programs of the various agencies and make recommendations as to the plans and activities of any such agency, department, or institution which affects the environment.

13-7-16-5 Federal grants

Sec. 5. Any local unit of government referred to in Chapter 1, section 2(3) hereof, or any agency of the state or interstate agency which makes application for loans or grants under such federal acts which relates to any program which affects or would affect the environment of the state, shall notify the board in writing of such application prior to the making of the application, and the board may, where it is a proper party, participate in all proceedings for such grant.

13-7-16-6 Fee schedules

Sec. 6. The board or the agencies in the exercise of their power to establish fees shall proceed as in the case of adoption of regulations and shall take into account the cost of the issuance of the permit or license, the performance of all services in connection with the supervision, review and other necessary activities related to the area involved, and the surveillance of the activity or property covered by the license or permit. No fees established shall exceed the costs as set out above.

13-7-16-7 Technical or monitoring program reports

Sec. 7. Any person discharging or proposing to discharge or emit contaminants which could affect environmental quality shall furnish such reasonable technical or monitoring program reports as the board or agency may specify by regulation. Such report shall be accompanied by an affidavit of the responsible officer or person in charge of the operation involved.

13-7-16-8 Severability

Sec. 8. If any provision of this article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared severable.

13-7-16-9 Liberal construction

Sec. 9. Being necessary for the public health, safety and welfare, this article shall be liberally construed to effectuate the purposes thereof.

13-7-16-10

Sec. 10. Any parenthetical section headings used in this article are included for organizational purposes and do not affect the meaning, construction, or application of the section.

Chapter 16.5 Polychlorinated Biphenyls and Terphenyls

13-7-16.5-1 Definitions

Sec. 1. As used in this chapter:

(a) "Board" means the environmental management board.

(b) "PCB" means the class of organic compounds known as polychlorinated biphenyls or terphenyls and includes any of several compounds produced by replacing two (2) or more hydrogen atoms on the biphenyl or terphenyl molecule with chlorine.

(c) "Person" means an individual, firm, partnership, association or corporation.

(d) "Ppm" means parts per million.

13-7-16.5-2 Administration and implementation of chapter; rules

Sec. 2. The board shall be responsible for the administration and implementation of this chapter to protect the public health, safety, and welfare from the toxic effects and environmental dangers of PCB. The board shall promulgate rules required by this chapter in the manner required by law.

13-7-16.5-3 Sale, manufacture or use of PCB compound prohibited; maximum concentrations; time limitations; exception; exemption

Sec. 3. (a) A person shall not sell or manufacture for sale in this state the compound PCB.

(b) Beginning July 1, 1977, a person shall not sell, manufacture for sale, or use an item, product, or material in his business in this state if the item, product, or material contains a concentration of greater than two hundred fifty thousand (250,000) ppm of PCB.

(c) Beginning January 1, 1978, a person shall not sell, manufacture for sale, or use an item, product, or material in his business in this state if the item, product, or material contains a concentration of PCB equal to or greater than one thousand (1,000) ppm.

(d) Beginning January 1, 1979, a person shall not sell, manufacture for sale, or use an item, product, or material in his business in this state if the item, product, or material contains a concentration of PCB equal to or greater than one hundred (100) ppm, except that:

(1) The board may by rule prescribe a lower maximum concentration of PCB for specific items, products, or materials if the board finds the one hundred (100) ppm concentration provided in this subsection to be inadequate to protect the public health, safety, and welfare from the toxic dangers of the PCB contained in that item, product, or material.

(2) An item, product, or material for which a lower maximum concentration of PCB is prescribed by federal law, rule, or regulation shall not contain a concentration of PCB higher than that federal maximum.

(e) Notwithstanding subsections (a), (b), (c), or (d) of this section, PCB or an item, product, or material containing PCB may be manufactured, sold for use or used in this state if it is used in a closed system as a dielectric fluid for an electric transformer or capacitor pursuant to rules promulgated by the board to insure the public health, safety, and welfare.

(f) Notwithstanding subsections (a), (b), (c), or (d) of this section, an item, product, or material containing PCB may be manufactured for sale, sold for use, or used in a business in this state pursuant to an exemption certificate issued by the director under section 4 of this chapter.

13-7-16.5-4 Exemption certificate; application; scope; "incidental concentrations of PCB" defined; conditions

Sec. 4. (a) A person may make written application to the board for an exemption certificate on forms provided by the board. The board may require additional information or materials to accompany the application as he deems necessary for an accurate evaluation of the application.

(b) The board may grant an exemption for an item, product, or material manufactured for sale, sold for use, or used by the person in his business if the item, product, or material contains incidental concentrations of PCB.

(c) As used in this section, "incidental concentrations of PCB" means concentrations of PCB which are beyond the control of the person and which are not the result of the person:

(1) exposing the item, product, or material to concentrations of PCB;

(2) failing to take reasonable measures to rid the item, product, or material of concentrations of PCB; or

(3) failing to use a reasonable substitute for the item, product, or material for which the exemption is sought.

(d) In granting a certificate of exemption, the board shall impose conditions on the exemption in order that the exemption covers only incidental concentrations of PCB.

13-7-16.5-5 Additional prohibitions; use of certain item, etc.

Sec. 5. In addition to the prohibitions prescribed in section 3 of this chapter, beginning July 1, 1977, a person shall not use an item, product, or material containing a concentration of PCB equal to or greater than one hundred (100) ppm in his business in this state unless:

(a) the person files with the board a written notice of intent to use the PCB or the item, product, or material containing PCB in his business and files a plan for the disposal of all material containing PCB which plan shall be approved prior to the use of the item, product, or material.

(b) the person annually files with the board a report detailing the total amount of PCB used by the person, and other information required by rule of the board to protect the public health, safety, and welfare from the toxic effects and environmental dangers of PCB.

13-7-16.5-6 Additional prohibitions; manufacture or sale of certain item, etc.

Sec. 6. In addition to the prohibitions prescribed in section 3 of this chapter, beginning July 1, 1977, a person shall not manufacture for sale or sell in this state an item, product, or material containing a concentration of PCB equal to or greater than one hundred (100) ppm unless:

(a) the PCB or the item, product, or material containing PCB is conspicuously labeled to disclose the presence of PCB, the concentration of PCB, and other information required by rule of the board to protect the public health, safety, and welfare from the toxic effects and environmental dangers of PCB.

(b) the person files with the board a written notice of intent to manufacture or sell the PCB or the item, product, or material containing PCB.

(c) the person annually files with the board a report detailing the total amount of PCB manufactured or sold by the person, and other information required by rule of the board to protect the public health, safety, and welfare from the toxic effects and environmental dangers of PCB.

13-7-16.5-7 Disposal of solid or liquid waste containing PCB

Sec. 7. Beginning July 1, 1977, a person shall not dispose of solid or liquid waste resulting from the use in his business of PCB or an item, product, or material containing or which has contained PCB except in conformity with rules promulgated by the board.

13-7-16.5-8 Violation of chapter or rule; penalties; separate violation for each day of violation

Sec. 8. (a) A person who violates this chapter or a rule promulgated under this chapter is guilty of a misdemeanor, punishable by imprisonment for not more than thirty (30) days, or a fine of not more than ten thousand dollars ($10,000), or both, for each violation.

(b) Each day that a violation of this chapter, or a rule promulgated under this chapter, continues shall be considered a separate violation.

Chapter 17. Judicial Review

13-7-17-1 Procedure

Sec. 1. Any person aggrieved by any final order or determination of the board or an agency, may proceed under IC 4-22-1-1 to 4-22-1-30 to obtain a judicial review.

13-7-17-2 Timely challenge of board determination

Sec. 2. No challenge as to the validity of any board or agency determination or order shall be made in any enforcement proceeding under this article as to any issue that could have been raised in a timely petition for review under the first section of this chapter and was not so raised.

Chapter 18. Appropriation

13-7-18-1 State board of health

Sec. 1. All moneys for the purposes of this article shall be provided through appropriations to the State Board of Health.

Note: Authority under IC 13-7-8.5 to issue provisional permits expires on January 1, 1982.

1983 AMENDMENTS
TO THE
ENVIRONMENTAL MANAGEMENT ACT

Sections Affected:

- IC 13-7-4-1 (Acts Prohibited)
- IC 13-7-8.5-3 (Listing HzW, Adds Delisting)
- IC 13-7-10-2 (Permits)
- IC 13-7-13-3 (Penalties)
- IC 13-7-13-4 (Transportation Violations: Penalties & Vehicle Forfeiture)

NEW Sections:

- IC 13-7-8.5-9 (Monthly Hzw Disposal Reports to Cty. Bd. of Health)
- IC 13-7-8.8 (Wastewater Management [Septic Tank Cleaning/Cleaners])

ARTICLE 7. ENVIRONMENTAL MANAGEMENT

Ch. 8.8. **Wastewater Management.**

Chapter 4. Acts Prohibited.

13-7-4-1 Specific acts prohibited

13-7-4-1 Specific acts prohibited

Sec. 1. No person shall:

(a) discharge, emit, cause, allow, or threaten to discharge, emit, cause or allow any contaminant or waste including any noxious odor, either alone or in combination with contaminants from other sources, into the environment or into any publicly-owned treatment works in any form which causes or would cause pollution which violates or would violate regulations, standards, or discharge or emission requirements adopted by the board or the appropriate agency pursuant to this article;

(b) increase the quantity or strength of any discharge of contaminants into the waters, or construct or install any sewer or sewage treatment facility or any new outlet for contaminants into the waters of this state without prior approval of the appropriate agency;

(c) deposit any contaminants upon the land in such place and manner which creates, or which would create, a pollution hazard;

(d) dump or cause or allow the open dumping of garbage or of any other solid waste in violation of regulations adopted by the appropriate agency;

(e) dispose of solid waste in, upon, or within the limits of or adjacent to any public highway, state park, state nature preserve or recreation area, or in or immediately adjacent to any lake or stream except in proper containers provided for sanitary storage of such solid waste, or except as a part of a sanitary landfill operation or other land disposal method approved by the appropriate agency;

(f) construct, install, operate, conduct, or modify, without prior approval of the board or an appropriate agency, any equipment or facility of any type which may cause or contribute to pollution or which may be designed to prevent pollution: however, the board or the appropriate agency may approve experimental uses of such equipment, facility, or pollution control device as is deemed necessary for the further development of the state of the art of pollution control;

(g) conduct any salvage operation or open dump by open burning or burn or cause or allow the burning of any solid waste in a manner which violates either IC 13-1-1 or the regulations adopted by the board or by an appropriate agency;

(h) commence construction of any proposed hazardous waste facility without having first filed an application for and received a construction permit from the board;

(i) commence or engage in the operation of any hazardous waste facility without having first obtained an operation permit from the board;

(j) deliver any hazardous waste to a hazardous waste facility which is not approved or which does not hold an operation permit from the board;

(k) cause or allow the transportation of a hazardous waste without a manifest whenever a manifest is required by law;

(l) commence construction of a hazardous waste disposal facility or commercial hazardous waste facility without having first filed an application for and received a certificate of environmental compatibility from the solid waste facility site approval authority; or

(m) violate any condition, limitation, or stipulation placed upon a certificate of environmental compatibility by the solid waste facility site approval authority or any other provision of IC 13-7-8.6.

(Formerly: Acts 1972, P.L.100, SEC.1; Acts 1973, P.L.126, SEC.2; Acts 1974, P.L.50, SEC.1). As amended by Acts 1980, P.L.103, SEC.6; P.L.171-1983, SEC.1.

Chapter 8.5. Hazardous Waste.

13-7-8.5-3 Criteria for determining; listing; emergency rule
13-7-8.5-9 Report to county board of health

13-7-8.5-3 Criteria for determining; listing; emergency rule

Sec. 3. (a) The board shall by regulation develop criteria for determining hazardous waste, as provided under IC 13-7-7. In developing such criteria, the board shall determine whether any waste to be or being disposed of:

(1) presents immediate or persistent hazards to man or wildlife;

(2) is resistant to natural degradation or detoxification; or

(3) is bioconcentrative, flammable, reactive, toxic, corrosive or infectious in addition to any other harmful characteristics.

(b) The board shall compile and maintain a listing of wastes which have been determined to be hazardous:

(1) under the criteria described in subsection (a); or

(2) by regulation of the United States environmental protection agency.

Such listing shall be issued in accordance with IC 4-22-2. However, the board may, by resolution, issue an emergency rule to declare any waste determined to be hazardous under this section. The resolution issuing such an emergency rule shall be in effect for ninety (90) days from the date of its adoption, and may be extended by resolution of the board for one (1) additional ninety (90) day period. The resolution issuing such an emergency rule, or extending such rule for an additional ninety (90) day period, is an exception to the definition of rule in IC 4-22-2-3. The emergency rule is of no effect after ninety (90) days, or one hundred eighty (180) days if extended, from the date of its adoption unless it is promulgated as a rule under IC 4-22-2.

(c) The board shall consider actions taken by adjoining states and the federal government for purposes of uniform criteria.

(d) The board may exclude a waste produced at a particular generating facility from the listing under subsection (b) if the person seeking exclusion of the waste demonstrates to the satisfaction of the board that:

(1) the waste does not meet any of the criteria under which it was listed as a hazardous waste; and

(2) (if the waste is listed as a hazardous waste under federal rules) the person seeking exclusion has already obtained exclusion of the waste from the United States Environmental Protection Agency.

As added by Acts 1980, P.L.103, SEC.9. Amended by P.L.171-1983, SEC.2.

13-7-8.5-9 Report to county board of health

Sec. 9. An owner or operator of a hazardous waste disposal facility must submit each month to the county board of health of the county in which the facility is located a report that lists the hazardous wastes disposed of in that facility during the previous month. The disposal facility may satisfy the requirements of this section by submitting photocopies of the facility daily log or a copy of any other report listing the hazardous wastes disposed of in the facility. *As added by P.L.171-1983, SEC.3.*

Chapter 8.8. Wastewater Management.

13-7-8.8-1 Definitions
13-7-8.8-2 Regulation of wastewater management services providers
13-7-8.8-3 Effective date for application of chapter
13-7-8.8-4 Permit program
13-7-8.8-5 Rules; site approval
13-7-8.8-6 Fees
13-7-8.8-7 Enforcement; violations; inspections
13-7-8.8-8 Exemptions

13-7-8.8-1 Definitions

Sec. 1. As used in this chapter:

"Board" refers to the Indiana environmental management board created by IC 13-7-2.

"Cleaning" means removal of wastewater from sewage disposal systems and other actions incidental to that removal.

"Land application" means the disposal of wastewater by burial or incorporation into the soil.

"Portable sanitary unit" includes portable toilets, mobile restrooms, and similar devices or equipment of a portable nature containing sanitary facilities for temporary or short term use.

"Sewage disposal system" means septic tanks, wastewater holding tanks, seepage pits, cesspools, privies, composting toilets, interceptors or grease traps, portable sanitary units, and other equipment, facilities or devices used to store, treat, render inoffensive, or dispose of human excrement or liquid-borne wastes of a domestic nature.

"Tank" means any container which is placed on a vehicle to transport wastewater removed from a sewage disposal system.

"Vehicle" means a device used to transport a tank.

"Wastewater" means human excreta, water, scum, sludge, and sewage from sewage disposal systems, retained contents of wastewater holding tanks or portable sanitary units, grease, fats, and retained wastes from grease traps or interceptors, liquid-borne wastes from ordinary living processes, and incidental or accidental seepage from sewage disposal systems.

"Wastewater management" includes the cleaning of sewage disposal systems, and the transportation, storage, treatment, or disposal of wastewater. *As added by P.L.172-1983, SEC.1.*

13-7-8.8-2 Regulation of wastewater management services providers

Sec. 2. In addition to its other duties, the board shall, after February 28, 1985, regulate persons who provide wastewater management services. *As added by P.L.172-1983, SEC.1.*

13-7-8.8-3 Effective date for application of chapter

Sec. 3. (a) After February 28, 1985, no person may transport, treat, store, or dispose of wastewater in violation of this chapter.

(b) After February 28, 1985, no person may engage in the cleaning of sewage disposal systems, or transportation, treatment storage, or disposal of wastewater, without a wastewater management permit, unless he is exempted under section 8 of this chapter.

(c) After February 28, 1985, no person may operate a vehicle for the transportation of wastewater without a wastewater management vehicle license under this chapter, unless he is exempted under section 5(2) of this chapter.

(d) After February 28, 1985, no person may dispose of wastewater by land application without first obtaining approval of the land application site under this chapter. *As added by P.L.172-1983, SEC.1.*

13-7-8.8-4 Permit program

Sec. 4. Before March 1, 1985, the board shall initiate, in accordance with IC 13-7-10, a wastewater management permit program for all persons who offer to perform or are performing wastewater management services. *As added by P.L.172-1983, SEC.1.*

13-7-8.8-5 Rules; site approval

Sec. 5. Before March 1, 1985, the board shall establish, in accordance with IC 13-7-7, rules regarding:

(1) standards for:

(A) the issuance of wastewater management permits under section 4 of this chapter;

(B) cleaning of sewage disposal systems; and

(C) transportation, storage, and treatment of wastewater, and disposal of wastewater, including land application;

(2) licensure of all vehicles used in wastewater management services; however, the board may exempt, by rule, vehicles already licensed under the industrial waste haulers rule, 320 IAC 5-10, as it exists on September 1, 1983; and

(3) procedures and standards for approval of sites for land application of wastewater.

The board may designate a county or city health agency as its agent to approve land application sites in accordance with rules adopted under this section. The procedures required by subdivision (3) must allow the granting of one-time, as well as continuing, site approvals. However, continuing approvals may not be granted for a period in excess of one (1) year. *As added by P.L.172-1983, SEC.1.*

13-7-8.8-6 Fees

Sec. 6. (a) The board may adopt a fee schedule for the issuance of wastewater management permits, wastewater management vehicle licenses, and land application site approvals under this chapter. However, a permit fee may not exceed one hundred dollars ($100) per year, and a vehicle license or land application approval fee may not exceed thirty dollars ($30) per year per vehicle or site.

(b) Whenever the board designates a county or city health agency as its agent to approve land application sites under this chapter, the county or city health agency shall collect and retain the land application approval fee. *As added by P.L.172-1983, SEC.1.*

13-7-8.8-7 Enforcement; violations; inspections

Sec. 7. (a) Enforcement of this chapter is governed by IC 13-7-11.

(b) Violations of this chapter are subject to the penalties imposed by IC 13-7-13.

(c) The board may make inspections under this chapter in accordance with IC 13-7-5-1(b). *As added by P.L.172-1983, SEC.1.*

13-7-8.8-8 Exemptions

Sec. 8. This chapter does not require a person to obtain a permit or vehicle license under this chapter if he is:

(1) engaged in servicing or maintaining publicly owned wastewater treatment facilities, or transportation of wastewater from a publicly owned wastewater treatment facility as long as the wastewater at that facility has been fully treated and is stabilized;

(2) transporting wastewater from the point of its removal to another location on the same site or tract owned by the same person; however, disposal of the wastewater must be done in accordance with this chapter; or

(3) a homeowner who cleans and services the sewage disposal system serving only his residence; however, transportation and disposal of wastewater must be done in compliance with this chapter.

As added by P.L.172-1983, SEC.1.

Chapter 10. Permits.

13-7-10-2 Issuance; period; hearing; notice; renewal

13-7-10-2 Issuance; period; hearing; notice; renewal

Sec. 2. (a) Any permit issued under this chapter may be issued for any period determined by the board or an agency to be appropriate but not to exceed five (5) years. The board or appropriate agency may delegate authority to issue or deny permits to its technical secretary or other duly designated staff member.

(b) A public hearing shall be held on the question of the issuance of an original or renewal permit for a hazardous waste disposal facility under IC 13-7-8.5, or on the question of the issuance of an original permit for a solid waste disposal facility upon:

(1) the request of the applicant;

(2) the filing of a petition requesting a public hearing that is signed by one hundred (100) adult individuals who:

(A) reside in the county where the proposed or existing facility is or is to be located; or

(B) own real property within one (1) mile of the site of the proposed or existing facility; or

(3) the motion of the board or an agency.

The public hearing authorized by this subsection does not constitute an administrative adjudication under IC 4-22-1. The board, after receiving a staff recommendation that an original or renewal permit be issued to an applicant for a hazardous waste disposal facility permit, shall at its next regular meeting appoint a hearing officer with instructions to set a date for the public hearing requested under this subsection. If the staff recommends to the board that the permit or renewal permit be denied, there is no requirement for the public hearing under this subsection.

(c) If the petition under subsection (b)(2) requests that the public hearing be conducted at a location within a county affected by a proposed permit, the board shall conduct that public hearing at that location.

(d) Whenever a permit is required by any rule of the board or an agency pursuant to section 1 of this chapter for the construction, installation, operation, or modification of any facility, equipment, or device, said permit shall be issued after the board or agency staff has approved the plans and specifications and determined that such facility, equipment, or device meets the requirement of the board or agency.

(e) Any issued permit or, if a permit is denied, notice of a permit denial shall be mailed in the United States postal system, postage prepaid, to the applicant at the address stated in his application. A permit shall be considered issued as of the date of mailing.

(f) When a person holding a valid permit concerning an activity of a continuing nature has made a timely and sufficient application for a renewal or a new permit in accordance with rules of the board or appropriate agency, the existing permit does not expire until a final determination on the application has been made by the board or agency. An application for renewal of a hazardous waste disposal facility operating permit under IC 13-7-8.5 must be submitted at least one hundred eighty (180) days before the expiration of the facility's current operating permit in order to be considered timely under this subsection. *(Formerly: Acts 1972, P.L.100, SEC.1). As amended by Acts 1980, P.L.103, SEC.11; P.L.171-1983, SEC.4.*

Chapter 13. Penalties.

13-7-13-3 Offenses; punishment

13-7-13-4 Unlawful transportation or storage of hazardous waste; forfeiture of vehicles

13-7-13-3 Offenses; punishment

Sec. 3. (a) Any person who intentionally, knowingly, recklessly or negligently violates this article, or any permit, condition, or limitation issued under this article, shall be punished by a fine of not less than two thousand five hundred dollars ($2,500) nor more than twenty-five thousand dollars ($25,000) per day of violation, or by imprisonment for not more than one (1) year, or by both. If the conviction is for a violation committed after a first conviction of such person under this subsection, punishment shall be a fine of not more than fifty thousand dollars ($50,000) per day of violation, or by imprisonment for not more than two (2) years, or both.

(b) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this article or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this article, shall upon conviction, be punished by a fine of not more than ten thousand dollars ($10,000), or by imprisonment for not more than six (6) months, or both.

For purposes of this section, "person" means, in addition to the definition in IC 35-41-1, any responsible corporate officer.

(c) Any person who knowingly:

(1) transports any hazardous waste to a facility which does not have an operation permit or approval to accept such waste;

(2) disposes, treats, or stores any hazardous waste without having obtained a permit therefor; or

(3) makes any false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used under this article with regard to hazardous waste;

shall be punished by a fine of not more than twenty-five thousand dollars ($25,000) for each day of violation, or by imprisonment not to exceed one (1) year, or both. If the conviction is for a violation committed after a first conviction of such person under this section, punishment shall be by a fine of not more than fifty thousand dollars ($50,000) per day of violation, or by imprisonment for not more than two (2) years, or both. *(Formerly: Acts 1972, P.L.100, SEC.1; Acts 1973, P.L.126, SEC.13). As amended by Acts 1978, P.L.2, SEC.1329; Acts 1980, P.L.103, SEC.17; P.L.311-1983, SEC.37.*

13-7-13-4 Unlawful transportation or storage of hazardous waste; forfeiture of vehicles

Sec. 4 (a) As used in this section:

"Person" has the means set out in IC 35-41-1.

"Hazardous waste" includes those wastes as defined by IC 13-7-1-2(17).

(b) Any person who intentionally transports, disposes, treats, or stores hazardous waste in violation of this article commits a Class D felony. However, notwithstanding IC 35-50-2-7(a), a person who is convicted of a Class D felony under this section may, in addition to the term of imprisonment established under IC 35-50-2-7(a), be fined not more than fifty thousand dollars ($50,000) for each day in violation.

(c) Notwithstanding subsection (b), if a person has committed a violation of subsection (b), the court may enter a judgment of conviction under IC 13-7-13-3. The court shall enter in the record, in detail, the reason for its action whenever it exercises the power granted in this subsection.

(d) A vehicle that is used to transport hazardous waste in the commission of an offense described in subsection (b) is subject to forfeiture under IC 34-4-30.1. *As added by Acts 1982, P.L.107, SEC.1. Amended by P.L.311-1983, SEC.38.*

TITLE 320 INDIANA ENVIRONMENTAL MANAGEMENT BOARD

LSA Document #1-62(F)

DIGEST

Establishes provisions for hazardous waste management permit programs and related hazardous waste management requirements.

320 IAC 4

SECTION 1. 320 IAC is amended by adding a NEW article 4 to read as follows:

ARTICLE 4. HAZARDOUS WASTE MANAGEMENT PERMIT PROGRAM AND RELATED HAZARDOUS WASTE MANAGEMENT REQUIREMENTS

ERRATA

TITLE 320 INDIANA ENVIRONMENTAL MANAGEMENT BOARD

AGENCY CORRECTION

LSA Document #82-87(F)

It has been brought to our attention that in the May 1, 1983 issue of the Indiana Register at page 876 (6 IR 876), in 320 IAC 4-3-7(b), the following change should be made:

In the final version of LSA #82-87(F) under 320 IAC 4-3-7(b), after the words "CFR 261.30 et seq.)." the stricken language "or which contains one or more hazardous wastes listed in Subpart D of this rule (40 CFR 261.30 et seq.)" should be shown as roman type and included as part of the subsection.

TITLE 320 INDIANA ENVIRONMENTAL MANAGEMENT BOARD

LSA Document #1-62(F)

DIGEST

Establishes provisions for hazardous waste management permit programs and related hazardous waste management requirements.

320 IAC 4

SECTION 1. 320 IAC is amended by adding a **NEW** article 4 to read as follows:

ARTICLE 4 HAZARDOUS WASTE MANAGEMENT PERMIT PROGRAM AND RELATED HAZARDOUS WASTE MANAGEMENT REQUIREMENTS

Rule 1 Hazardous Waste Management: General Provisions and Definitions

320 IAC 4-1-1 Purpose

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 1. The purpose of these rules [*320 IAC 4*] is to establish policies, procedures, requirements, and standards to implement the Environmental Management Act (IC 13-7). These rules [*320 IAC 4*] are being promulgated for the purpose of protecting and enhancing the quality of Indiana's environment and protecting the public health, safety, and well-being of its citizens and establishing a hazardous waste management program consistent with the requirements of the Resource Conservation and Recovery Act (P.L. 94-580), as amended, including the amendments made by the Solid Waste Disposal Act Amendments of 1980 (P.L. 96-482), hereafter referred to as RCRA. *(Indiana Environmental Management Board; 320 IAC 4-1-1; filed Oct 21, 1981, 3:35 pm)*

320 IAC 4-1-2 Scope

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 2. Any reference in these rules [*320 IAC 4*] to standards, procedures, and requirements of 40 CFR Parts 260 through 265 shall constitute the full adoption by reference of the Part, subpart, and paragraph so referenced, including any notes and appendices as may be associated, unless otherwise stated. *(Indiana Environmental Management Board; 320 IAC 4-1-2; filed Oct 21, 1981, 3:35 pm)*

SECTION 1. 320 IAC 4-1-3 is amended to read as follows:

320 IAC 4-1-3 Conversion of federal terms

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 3. **When used in 40 CFR Parts 260 through 265, as adopted in** ~~**these rules**~~ **320 IAC 4, except in regard to international shipments in 40 CFR Parts 262 and 263, and in situations where the context of 40 CFR Parts 260 through 265 clearly indicates**

of Indiana, the "Administrator of the Environmental Protection Agency" means the Indiana environmental management board, and "Regional Administrator" means the technical secretary of the environmental management board. *(Indiana Environmental Management Board; 320 IAC 4-1-3; filed Oct 21, 1981, 3:35 pm: 4 IR 2795; filed Apr 4, 1983, 10:22 am)*

SECTION 2. 320 IAC 4-1-4 is amended to read as follows:

320 IAC 4-1-4 Reference not specifically adopted

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 4. ~~Any~~ **(a)** A reference to 40 CFR Parts 122 or 124, in ~~any~~ provisions ~~as~~ adopted by reference from 40 CFR Parts 260 through 265, **and which deal solely with permitting procedures**, means the permitting procedures contained in ~~Rules 8 and 9 of this article~~ **320 IAC 4-8 and 320 IAC 4-9 except in situations where the context of 40 CFR Parts 260 through 265 clearly indicates otherwise**.

(b) Any references to EPA forms or reports means those EPA forms or reports. *(Indiana Environmental Management Board; 320 IAC 4-1-4; filed Oct 21, 1981, 3:35 pm: 4 IR 2795; filed Apr 4, 1983, 10:22 am)*

SECTION 3. 320 IAC 4-1-5 is amended to read as follows:

320 IAC 4-1-5 Adoption of federal definitions

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-1-2; IC 13-7-8.5-5; IC 13-7-10-1

Sec. 5. Subject to the definitions provided in IC 13-7-1-2, which shall govern in every instance where a definition in IC 13-7-1-2 conflicts with a definition in 40 CFR Part 260.10, 40 CFR Part 260.10 ~~(1980), as amended by 40 CFR Part 260.10, 45 Fed. Reg. 72028 (October 30, 1980); as amended by 40 CFR Part 260.10, 45 Fed. Reg. 76075 (November 17, 1980), as amended by 40 CFR Part 260.10, 45 Fed. Reg. 76630 (November 19, 1980); as amended by 40 CFR Part 260.10, 45 Fed. Reg. 86968 (December 31, 1980), as amended by 40 CFR 260.10, 46 Fed. Reg. 2348 (January 9, 1981)~~ **(1982)**, is hereby adopted and incorporated by reference and made applicable to ~~these rules~~ **320 IAC 4 with the following modification: the definition of "designated facility" in 40 CFR 260.10 is amended to read as follows: "Designated facility" means a hazardous waste treatment, storage, or disposal facility which has received:**

(1) an EPA permit (or a facility with interim status or a facility in Indiana with a permit pursuant to 320 IAC 4-9) in accordance with the requirements of 40 CFR Parts 122 and 124, notwithstanding the provision of 320 IAC 4-1-4 concerning the meaning of 40 CFR Parts 122 and 124; or

(2) a permit from a state authorized by EPA to issue such permits in accordance with 40 CFR Part 123,

that has been designated on the manifest by the generator pursuant to 40 CFR 262.20. *(Indiana Environmental Management Board; 320 IAC 4-1-5; filed Oct 21, 1981, 3:35 pm: 4 IR 2795; filed Apr 4, 1983, 10:22 am)*

320 IAC 4-1-6 Availability of adopted regulations

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 4-22-2-7.1; IC 13-7-8.5-5; IC 13-7-10-1

Sec. 6. **(a)** At least two copies of the text of federal ~~regulations~~ **rules**, ~~together with all amendments and supplements thereto~~, which have been duly adopted by the board, shall be authenticated by the technical secretary of the environmental management board and kept on file in the office of the technical secretary of the environmental management board so as to be easily accessible at all reasonable times to all interested persons.

(b) Federal rules which the board have incorporated by reference do not include any later amendments other than those specified in the incorporating citation. Sales are handled exclusively by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. The board shall forward orders to the Superintendent of Documents. *(Indiana Environmental Management Board; 320 IAC 4-1-6; filed Oct 21, 1981, 3:35 pm: 4 IR 2796; filed Apr 4, 1983, 10:22 am)*

Rule 2. Hazardous Waste Management; Notification of Hazardous Waste Activities

SECTION 5. 320 IAC 4-2-1 is amended to read as follows:

320 IAC 4-2-1 Notification required

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 1. Every hazardous waste generator, transporter, or owner, ~~and~~ **or** operator of a hazardous waste storage, treatment, disposal, or recovery facility shall notify the board of such activities on forms provided by the board unless such activity is exempted from notification by the requirements for hazardous waste generated by small quantity generators as proscribed in ~~Rule 3~~ **320 IAC 4-3-4**. *(Indiana Environmental Management Board; 320 IAC 4-2-1; filed Oct 21, 1981, 3:35 pm: 4 IR 2796; filed Apr 4, 1983, 10:22 am)*

320 IAC 4-2-2 Notification: time for notifying for existing generators, transporters, and owners and operators of hazardous waste facilities

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 2. (a) Any person who generates, transports, treats, stores, recovers, or disposes of hazardous waste as defined in Rule 3 shall notify the Board, in accordance with Section 1 of this Rule, of such activity no later than ninety (90) days from the effective date of Rule 3, unless such notification has been previously provided to the Regional Administrator of the Environmental Protection Agency in accordance with Section 3010 of RCRA.

(b) Any person who generates, transports, treats, stores, recovers, or disposes of a solid waste which has been determined to be hazardous, or is added to the listing of hazardous waste by any revision of Rule 3, shall notify the Board of such activity, in accordance with Section 1 of this Rule, no later than 90 days from the effective date of the revision of Rule 3 causing the waste to be hazardous or adding the waste to the listing of hazardous waste. *(Indiana Environmental Management Board; 320 IAC 4-2-2; filed Oct 21, 1981, 3:35 pm)*

320 IAC 4-2-3 Notification: time for notifying for new hazardous waste generators

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 3. (a) Any person who becomes a generator of hazardous waste after the ninety (90) day period for notification under Section 2 shall notify the Board of such activity within thirty (30) days of the start of generation and obtain an identification number under Section 4.

(b) Any person who transports or offers for transportation a hazardous waste must first obtain an identification number under Section 4. *(Indiana Environmental Management Board; 320 IAC 4-2-3; filed Oct 21, 1981, 3:35 pm)*

320 IAC 4-2-4 Issuance of identification numbers

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 4. The Board shall issue identification numbers to those persons notifying the Board of hazardous waste activities in accordance with Section 1 of this Rule, unless such an identification number has been issued by the Environmental Protection Agency, in which case the Board will use that number. *(Indiana Environmental Management Board; 320 IAC 4-2-4; filed Oct 21, 1981, 3:35 pm)*

Rule 3. Hazardous Waste Management; Identification and Listing of Hazardous Wastes

SECTION 6. 320 IAC 4-3-1 is amended to read as follows:

320 IAC 4-3-1 Adoption of federal identification and listing of hazardous wastes

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 1. **Subject to the requirements given in 320 IAC 4-3-3,** ~~4-3-4~~ **320 IAC 4-3-5, 320 IAC 4-3-6, and 320 IAC 4-3-7, below, 40 CFR Part 261, and Appendices I, II, III, VII, and VIII to Part 261** ~~(1980); as amended by 40 CFR Part 261, 45 Fed. Reg. 47833-34 (July 16, 1980); as amended by 40 CFR Part 261, 45 Fed. Reg. 72028, 72037, 72039, 72041, (October 30, 1980); as amended by 40 CFR Part 261, 45 Fed. Reg. 74890-92~~

~~(November 12, 1980; as amended by 40 CFR Part 261, 45 Fed. Reg. 76620, 76623-24 (November 10, 1980); as amended by 40 CFR Part 261, 45 Fed. Reg. 78529, 78531-32, 78541-44 (November 25, 1980) as amended by 40 CFR Part 261, 45 Fed. Reg. 80287 (December 4, 1980); as amended by 40 CFR Part 261, 46 Fed. Reg. 4617-20 (January 16, 1981)~~ **(1982)**, are hereby adopted and incorporated by reference and made applicable to ~~these rules~~ **320 IAC 4**, with the following exception: delete 40 CFR 261.6. *(Indiana Environmental Management Board; 320 IAC 4-3-1; filed Oct 21, 1981, 3:35 pm: 4 IR 2796; filed Apr 4, 1983, 10:22 am)*

320 IAC 4-3-2 Compilation and maintenance of hazardous waste listing

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 2. The Board shall include or remove a hazardous waste from the listing of hazardous waste in accordance with IC 13-7-8.5-3. *(Indiana Environmental Management Board; 320 IAC 4-3-2; filed Oct 21, 1981, 3:35 pm)*

SECTION 7. 320 IAC 4-3-3 is amended to read as follows:

320 IAC 4-3-3 Small quantity generator requirement

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 3. (a) 40 CFR Part 261, as adopted by ~~this rule~~ **320 IAC 4-3**, grants an exemption from certain requirements of RCRA and rules adopted under RCRA if the generator meets the requirements of 40 CFR 261.5. A person who qualifies as a small quantity generator under 40 CFR 261.5 and who elects to dispose of such waste at a solid waste disposal facility permitted by this state to manage municipal or industrial solid waste must comply with the requirements of subsection (b). ~~This section takes effect April 1, 1982.~~

(b)~~(1)~~ A small quantity generator ~~who generates in a calendar month a total of less than 200 kilograms of hazardous waste, which shall not include any hazardous waste under 40 CFR 261.5(e)~~, must ensure delivery to a solid waste disposal facility which has a permit under ~~330 IAC 4, or its successor rule,~~ **320 IAC 5** to accept municipal or industrial solid waste and ~~which is listed under Section 4 of this Rule~~ **in accordance with 320 IAC 5-5-14 or its successor rule**.

~~(2) A small quantity generator who generates in a calendar month a total of more than 200 kilograms but less than 1,000 kilograms of hazardous waste, or less than the quantities of hazardous waste specified in 40 CFR 261.5(e), must:~~

~~(A) ensure delivery to a solid waste disposal facility which has a permit under 330 IAC 4, or its successor rule, to accept municipal or industrial solid waste and which is listed under Section 4 of this Rule; and~~

~~(B) on the effective date of this rule, and annually thereafter, by prior written notice give to the description of the hazardous waste expected to be delivered to the facility including EPA hazardous waste numbers, codes, expected quantities per month, physical state and method of containerization of the waste (e.g., liquid, solid, drums, bulk or mixed with solid waste), and handling instructions or safety precautions. The notice must be updated whenever a new hazardous waste is to be delivered.~~

~~(3) If the hazardous waste to be delivered to a solid waste disposal facility under paragraph (1) or (2) is ignitable or reactive, the generator shall give twenty-four (24) hours notice to the facility operator of such shipment of such waste.~~ *(Indiana Environmental Management Board; 320 IAC 4-3-3; filed Oct 21, 1981, 3:35 pm: 4 IR 2797; filed Apr 4, 1983, 10:22 am)*

320 IAC 4-3-4 List of solid waste disposal facilities approved for small quantity generator wastes

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Repeals 320 IAC 4-3-4 and 320 IAC 4-7-2.

320 IAC 4-3-5 Forfeiture of small quantity generator status

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 5. In addition to or in lieu of any penalty under IC 13-7-13, a person who fails to comply with Section 3 twice in any twelve (12) month period shall be denied exempt status under this Rule [*320 IAC 4-3*] and shall be subjected to all the requirements of generators under 320 IAC 4 for a period not to exceed one (1) year. *(Indiana Environmental Management Board; 320 IAC 4-3-5; filed Oct 21, 1981, 3:35 pm)*

320 IAC 4-3-6 Variance for delisted hazardous waste

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5; IC 13-7-7-6

Sec. 6. A person who obtains temporary or final approval of a petition under Federal Rule 40 CFR 260.22 to exclude from hazardous waste regulation a particular waste at a particular facility may petition the Board for a variance from this Rule under IC 13-7-7-6 for the same waste and facility. *(Indiana Environmental Management Board; 320 IAC 4-3-6; filed Oct 21, 1981, 3:35 pm)*

SECTION 8. 320 IAC 4-3-7 is amended to read as follows:

320 IAC 4-3-7 Special requirements for hazardous waste which is used, reused, recycled, or reclaimed

Authority: IC 13-7-3-1 IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 7. (a) Except as otherwise provided in subsection (b) of this section~~,~~:

(1) a hazardous waste which ~~meets either of the following criteria~~ is one of the following materials being used, re-used, recycled, or reclaimed in the specified manner:

(A) a spent pickle liquor which is re-used in wastewater treatment at a facility holding a National Pollutant Discharge Elimination System (NPDES) permit, or is being accumulated, stored or physically, chemically, or biologically treated before such re-use; or

(2) a waste determined to be hazardous because of its characteristic or characteristics (40 CFR 261.20 to 40 CFR 261.24) which meets any of the following criteria:

(A) it is transported to and is being used, recycled, or recovered at a facility which has a permit under 320 IAC 4-9, or a facility in another state which has a RCRA permit issued by that state, if so authorized under 40 CFR 123, or a facility with RCRA interim status in another state which does not have an authorized hazardous waste program under 40 CFR 123;

(B) it is recycled, recovered, or re-used at the same site by the generator under IC 13-7-8.5-5(e); or

(C) it is stored or treated on-site by the generator prior to transport off-site to a facility pursuant to paragraph (A);

is not subject to regulation under ~~Rules 4 through 9, inclusive of this article~~ 320 IAC 4-4—320 IAC 4-9 and is not subject to the notification requirements of ~~Rule 2 of this article~~ 320 IAC 4-2 until such time as the board adopts rules to the contrary~~:~~.

~~(1) it is being used, re-used, recycled, or recovered at a facility which has a permit under Rule 9;~~

~~(2) it is recycled, recovered, or re-used at the same site by the generator under IC 13-7-8.5-5(e), or~~

~~(3) it is one of the following materials being used, re-used, recycled, or reclaimed in the specified manner:~~

~~(A) spent pickle liquor which is re-used in wastewater treatment at a facility holding a National Pollutant Discharge Elimination System (NPDES) permit, or which is being accumulated, stored or physically, chemically, or biologically treated before such re-use.~~

(b) Except for those wastes listed in paragraph (a)~~(3)~~(1) of this section, a hazardous waste which is a sludge, or which is listed in subpart D of this rule (40 CFR 261.30 et seq.), ~~or which contains one or more hazardous wastes listed in subpart D of this rule (40 CFR 261.30 et seq.),~~ and which is ~~transported or~~ stored on-site or transported prior to being used, re-used, recycled, or re-claimed, is subject to the following requirements with respect to such ~~transportation or storage~~ on-site storage or transportation:

(1) Notification requirements under ~~Rule 2 of this article~~ 320 IAC 4-2,

(2) ~~Rule 4 of this article~~ 320 IAC 4-4,

(3) ~~Rule 5 of this article~~ 320 IAC 4-5,

(4) ~~Subparts A, B, C, D, E, F, G, H, I, J, and L of Part 265,~~ 40 CFR 265 as adopted under ~~Rules 6 and 7 of this article~~ 320 IAC 4-6—320 IAC 4-7, and

(5) ~~Rules 8 and 9 of this article~~ 320 IAC 4-8—320 IAC 4-9 with respect to on-site storage ~~facilities~~.

(Indiana Environmental Management Board; 320 IAC 4-3-7; filed Oct 21, 1981, 3:35 pm: 4 IR 2798; filed Apr 4, 1983, 10:22 am)

Rule 4. Hazardous Waste Management; Standards Applicable to Generators of Hazardous Waste

320 IAC 4-4-1 Adoption of federal regulation applicable to generators of hazardous waste

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 1. Subject to the requirements under 320 IAC 4-4-2 and 4-4-3, below, 40 CFR Part 262 (1980); as amended by 40 CFR Part 262, 45 Fed. Reg. 76626 (November 19, 1980); as amended by 40 CFR Part 262, 45 Fed. Reg. 78529 (November 25, 1980); as amended by 40 CFR Part 262, 45 Fed. Reg. 86970, 86973 (December 31, 1980), is hereby adopted and incorporated by reference and made applicable to these rules [*320 IAC 4*]. *(Indiana Environmental Management Board; 320 IAC 4-4-1; filed Oct 21, 1981, 3:35 pm)*

320 IAC 4-4-2 Special requirements for international shipments of hazardous waste

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 4. All persons subject to 40 CFR Part 262.50, as adopted above, shall submit the advance notification of international shipment to the Administrator of the Environmental Protection Agency at the address given in 40 CFR Part 262.50, and a copy of the notice shall be submitted, at the same time, to the Board. *(Indiana Environmental Management Board; 320 IAC 4-4-2; filed Oct 21, 1981, 3:35 pm)*

Rule 5. Hazardous Waste Management; Standards Applicable to Transporters of Hazardous Waste

320 IAC 4-5-1 Adoption of federal regulation applicable to transporters of hazardous waste

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 1. 40 CFR Part 263 (1980); as amended by 40 CFR Part 263, 45 Fed. Reg. 86968, 86973-74 (December 31, 1980), is hereby adopted and incorporated by reference and made applicable to these rules [*320 IAC 4*]. *(Indiana Environmental Management Board; 320 IAC 4-5-1; filed Oct 21, 1981, 3:35 pm)*

320 IAC 4-5-2 Requirements for transporters who store hazardous waste

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 2. Transporters who store hazardous waste in excess of ten (10) days at any one (1) facility shall comply with 320 IAC 4-6, 320 IAC 4-7, 320 IAC 4-8, and 320 IAC 4-9. *(Indiana Environmental Management Board, 320 IAC 4-5-2, filed Oct 21, 1981, 3:35 pm)*

320 IAC 4-5-3 Requirements for interstate shipment of hazardous waste

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 3. Any person transporting hazardous waste in and through the State of Indiana shall use a hazardous waste manifest which contains, at a minimum, the information required by 320 IAC 4-4-1. *(Indiana Environmental Management Board, 320 IAC 4-5-3, filed Oct 21, 1981, 3:35 pm)*

Rule 6. Hazardous Waste Management Standards Applicable to Owners and Operators of Hazardous Waste Facilities

SECTION 9. 320 IAC 4-6-1 is amended to read as follows:

320 IAC 4-6-1 Adoption of federal regulations applicable to owners and operators of hazardous waste facilities

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 1. **Subject to the requirements given in 320 IAC 4-6-2, below, 40 CFR Part 265, Subparts A through F and Subparts I through R, and Appendices I through V of Part 265** ~~(1980); as amended by 40 CFR Part 265, 45 Fed. Reg. 76076 (November 17, 1980); as amended by 40 CFR Part 265, 45 Fed. Reg. 76630 (November 19, 1980); as amended by 40 CFR Part 265, 45 Fed. Reg. 78529 (November 25, 1980); as amended by 40 CFR Part 265, 45 Fed. Reg. 86968, 86970, 86974 (December 31, 1980)~~ **(1982)**, are hereby adopted and incorporated by reference and made applicable to ~~these rules.~~ **320 IAC 4 with the following exceptions:**

(1) Delete 40 CFR 265.1(c)(3); 265.1(c)(4); 265.1(c)(6); 265.253(c); 265.272(d); 265.302(c) 265.312(b); 265.314(c); and 265.315(b).

(2) In 40 CFR 265.1(b), delete "The standards in this part apply to owners and operators of facilities which treat, store, or dispose of hazardous waste who have fully complied with the requirements for interim status under section 3005(e) of RCRA and 122.22 of this chapter, until final administrative disposition of their permit application is made. These standards apply to all treatment, storage, or disposal of hazardous waste at these facilities after the effective date of these regulations, except as specifically provided otherwise in this part of Part 261 of this Chapter." and insert "The standards in this rule apply to owners and operators of facilities which treat, store, dispose.

(3) In 40 CFR 265.90(a), in the first two lines, delete "Within one year of the effective date of these regulations, the" and insert "The."

(4) In 40 CFR 265.90(d)(1), in the first two lines, delete "Within one year of the effective date of these regulations, submit" and insert "Submit."

(5) In 40 CFR 265.90(d)(2), in the first two lines, delete "Not later than one year after the effective date of these regulations," and insert "Must."

(6) In 40 CFR 265.93(a), in the first two lines, delete "Within one year of the effective date of these regulations, the" and insert "The."

(Indiana Environmental Management Board, 320 IAC 4-6-1; filed Oct 21, 1981, 3:35 pm: 4 IR 2799; filed Apr 4, 1983, 10:22 am)

SECTION 10. 320 IAC 4-6-2 is amended to read as follows:

320 IAC 4-6-2 Compliance date for those not subject to federal regulations

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-3; IC 13-7-8.5-5; IC 13-7-10-1

Sec. 2. ~~All persons~~ **Any person** who, prior to the effective date of ~~this Rule,~~ **320 IAC 4-6 was** not required to notify the regional director under Section 3010 of RCRA, or who was not required to file an application under 40 CFR Part 122, but who becomes subject to ~~this Rule~~ **320 IAC 4-6 subsequently** because:

~~(a)~~**(1)** a waste he is treating, storing, recovering, or disposing has been subsequently added to the list under 40 CFR Subpart D of Part 261 by a revision of ~~Rule 3~~ **320 IAC 4-3**, or an emergency rule under IC 13-7-8.5-3(b); or

~~(b)~~**(2)** the facility owned or operated by the person has lost its exempt status under 40 CFR 261.5 or IC 13-7-8.5-5(e);

must comply with ~~this Rule~~ **the requirements of 320 IAC 4-6** within ninety (90) days of the ~~effective date of this Rule~~ **such person becomes subject to 320 IAC 4-6.** *(Indiana Environmental Management Board; 320 IAC 4-6-2; filed Oct 21, 1981, 3:35 pm: 4 IR 2799; filed Apr 4, 1983, 10:22 am)*

Rule 7. Hazardous Waste Management: Closure, Post-Closure, Liability, and Financial Requirements for Owners and Operators of Hazardous Waste Facilities

SECTION 11. 320 IAC 4-7-1 is amended to read to read as follows:

320 IAC 4-7-1 Incorporation by reference; 40 CFR pt. 265, subpt. G (1982); closing facilities, post closure

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-8.5-8; IC 13-7-10-1

Sec. 1. 40 CFR 265, subpart G ~~(1980); as amended by 45 Fed. Reg. 72040 (October 30, 1980); as amended by 46 Fed. Reg. 2874-77 (January 12, 1981);~~ **(1982)**, is hereby incorporated by reference and made applicable to ~~these rules~~ **320 IAC 4** with the following

(1) In the first ~~line~~ lines of 40 CFR 265.112(a) and 40 CFR 265.118(a), delete "By May 19, 1981" and insert "On the effective date of this rule."
(2) In 40 CFR 265.112(c), delete "(1) termination of interim status (except when a permit is issued to the facility simultaneously with termination of interim status), or (2) issuance of judicial decree or compliance order under Section 3008 of RCRA to cease receiving waste or close." and insert the following: "(1) termination of a permit issued under this article; or (2) issuance of a court order or order of compliance under IC 13-7-8.5-8 to cease receiving wastes or to close."
(3) In 40 CFR 265.112(d), delete the sentence: "If the owner or operator plans to begin closure before November 19, 1981, he must submit the closure plan by May 19, 1981."
(Indiana Environmental Management Board; 320 IAC 4-7-1; filed Oct 21, 1981, 3:35 pm: 4 IR 2799; filed Apr 4, 1983, 10:22 am)

320 IAC 4-7-2 Adoption of federal financial assurance and liability requirements (Effective date July 1, 1982)

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-5-1; IC 13-7-8.5; IC 23-1-2-2; IC 23-1-16

Repeals 320 IAC 4-3-4 and 320 IAC 4-7-2.

SECTION 12. 320 IAC 4-7-3 is added to read as follows:

320 IAC 4-7-3 Applicability of financial requirement standards

Authority: IC 13-7-3-1; IC 13-7-6-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-6; IC 13-7-10-1

Sec. 3. (a) The requirements of 320 IAC 4-7-5, 320 IAC 4-7-6, and 320 IAC 4-7-10—320 IAC 4-7-12 apply to owners and operators of all hazardous waste facilities, except as provided otherwise in this section or in 320 IAC 4-7.

(b) The requirements of 320 IC 4-7-7, 320 IAC 4-7-8, and 320 IAC 4-7-9 apply only to owners and operators of disposal facilities.

(c) State and federal government are exempt from the requirements of 320 IAC 4-7. *(Indiana Environmental Management Board; 320 IAC 4-7-3; filed Apr 4, 1983, 10:22 am)*

SECTION 13. 320 IAC 4-7-4 is added to read as follows:

320 IAC 4-7-4 Definitions; Cf. 40 CFR §265.141(1982)

Authority: IC 13-7-3-1; IC 13-7-6-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 4. (a) As used in 320 IAC 4-7:

"Closure plan" means the plan for closure prepared in accordance with the requirements of 320 IAC 4-7-1.

"Current closure cost estimate" means the most recent of the estimates prepared in accordance with 320 IAC 4-7-5(a), (b), and (c).

"Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with 320 IAC 4-7-15(a), (b), and (c).

"Parent corporation" means a corporation which directly owns at least 50 percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.

"Post-closure plan" means the plan for post-closure care prepared in accordance with the requirements of 320 IAC 4-7-1.

(b) The following terms are used in the specifications for the financial tests for closure, post-closure care, and liability coverage. The definitions are intended to assist in the understanding of 320 IAC 4-7 and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices.

"Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.

"Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

"Current liabilities" means obligations whose liquidation is reasonably expected to require the use of the existing resources properly classifiable as current assets or the creation of other current liabilities.

"Independently audited" refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

"Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

"Net working capital" means current assets minus current liabilities.

"Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

(c) In the liability insurance requirements, the terms "bodily injury" and "property damage" shall have the meanings given these terms by Indiana law. However, these terms do not include those liabilities which, consistent with standard industry practice, are excluded from coverage in liability policies for bodily injury and property damage. The board intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings within the insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of 320 IAC 4-7 and are not intended to limit their meanings in a way that conflicts with general insurance industry usage.

"Accidental occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage neither expected nor intended from the standpoint of the insured.

"Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

"Nonsudden accidental occurrence" means an occurrence which takes place over time and involves continuous or repeated exposure.

"Sudden accidental occurrence" means an occurrence which is not continuous or repeated in nature. *(Indiana Environmental Management Board, 320 IAC 4-7-4; filed Apr 4, 1983, 10:22 am)*

SECTION 14. 320 IAC 4-7-5 is added to read as follows:

320 IAC 4-7-5 Cost estimate for facility closure; Cf. 40 CFR §265.142 (1982)

Authority: IC 13-7-3-1; IC 13-7-6-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-6; IC 13-7-10-1

Sec. 5. (a) The owner or operator must prepare a written estimate, in current dollars, of the cost of closing the facility in accordance with the closure plan as specified in 320 IAC 4-7-1. The closure cost estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan.

(b) The owner or operator must adjust the closure cost estimate for inflation within thirty (30) days after each anniversary of the date on which the first closure cost estimate was prepared. The adjustment must be made as specified in subsections (b)(1) and (b)(2) of this section, using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(1) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.
(2) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

(c) The owner or operator must revise the closure cost estimate whenever a change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in subsection (b) of this section.

(d) The owner or operator must keep the following at the facility during the operating life of the facility. The latest closure cost estimate prepared in accordance with subsections (a) and (c) of this section and, when this estimate has been adjusted in accordance with subsection (b) of this section, the latest adjusted closure cost estimate. *(Indiana Environmental Management Board; 320 IAC 4-7-5; filed Apr 4, 1983, 10:22 am)*

SECTION 15. 320 IAC 4-7-6 is added to read as follows:

320 IAC 4-7-6 Financial assurance for closure; optional approaches

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 6. An owner or operator of each facility must establish financial assurance for closure of the facility. He must choose from the options as specified in 320 IAC 4-7-7—320 IAC 4-7-11. *(Indiana Environmental Management Board; 320 IAC 4-7-6; filed Apr 4, 1983, 10:22 am)*

SECTION 16. 320 IAC 4-7-7 is added to read as follows:

320 IAC 4-7-7 Closure trust fund option; Cf. 40 CFR §265.143(a) (1982)

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 7. (a) An owner or operator must satisfy the requirements of 320 IAC 4-7-6 by establishing a closure trust fund which conforms to the requirements of this subsection and submitting an originally signed duplicate of the trust agreement to the technical secretary. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state of Indiana agency.

(b) The wording of the trust agreement must be identical to the wording specified in 320 IAC 4-7-28(a), and the trust agreement must be accompanied by a formal certification of acknowledgment (for example, see 320 IAC 4-7-28(a)). Schedule A of the trust agreement must be updated within sixty (60) days after a change in the amount of the current closure cost estimate covered by the agreement.

(c) Payments into the trust fund must be made annually by the owner or operator over the 20 years beginning with July 1, 1982 or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments in the closure trust fund must be made as follows:

(1) The first payment must be made by July 1, 1982, except as provided in subsection (e) of this section. The first payment must be at least equal to the current closure cost estimate, except as provided in 320 IAC 4-7-12, divided by the number of years in the pay-in period.

(2) Subsequent payments must be made no later than thirty (30) days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next payment} = \frac{CE - CV}{Y}$$

where CE is the current closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(d) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the current closure cost estimate at the time the fund is established. However, he must maintain the value that the fund would have if annual payments were made as specified in subsection (c) of this section.

(e) If the owner or operator establishes a closure trust fund after having used one or more alternate mechanisms specified in 320 IAC 4-7-7—320 IAC 4-7-11, his first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made as specified in subsection (c) of this section.

(f) After the pay-in period is completed, whenever the current closure cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within sixty (60) days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance as specified in 320 IAC 4-7-7—320 IAC 4-7-11 to cover the difference.

(g) If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the technical secretary for release of the amount in excess of the current closure cost estimate.

(h) If an owner or operator substitutes other financial assurance as specified in 320 IAC 4-7-7—320 IAC 4-7-11 for all or part of the trust fund, he may submit a written request to the technical secretary for release of the amount in excess of the current closure cost estimate covered by the trust fund.

(i) Within sixty (60) days after receiving a request from the owner or operator for release of funds as specified in subsection (g) or (h) of this section, the technical secretary will instruct the trustee to release to the owner or operator such funds as the technical secretary specifies in writing.

(j) After beginning final closure, an owner or operator or any other person authorized to perform closure may request reimbursement for closure expenditures by submitting itemized bills to the technical secretary. Within sixty (60) days after receiving bills for closure activities, the technical secretary will determine whether the closure expenditures are in accordance with the closure plan or otherwise justified, and if so, he will instruct the trustee to make reimbursement in such amounts as the technical secretary specifies in writing. If the technical secretary has reason to believe that the cost of closure will be significantly greater than the value of the trust fund, he may withhold reimbursement of such amounts as he deems prudent until he determines, in accordance with 320 IAC 4-7-14, that the owner or operator is no longer required to maintain financial assurance for closure.

(k) The technical secretary will agree to termination of the trust when:

(1) an owner or operator substitutes alternative financial assurance as specified in 320 IAC 4-7-7—320 IAC 4-7-11; or

(2) the technical secretary releases the owner or operator from the requirements of 320 IAC 4-7-6 in accordance with 320 IAC 4-7-14.

(Indiana Environmental Management Board; 320 IAC 4-7-7; filed Apr 4, 1983, 10:22 am)

SECTION 17. 320 IAC 4-7-8 is added to read as follows:

320 IAC 4-7-8 Surety bond guaranteeing payment into a closure trust fund option; Cf. 40 CFR §265.143(b) (1982)

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1; IC 23-1-16

Sec. 8. (a) An owner or operator may satisfy the requirements of 320 IAC 4-7-6 by obtaining a surety bond which conforms to the requirements of this section and submitting the bond to the technical secretary. The surety company issuing the bond must, at a minimum, be authorized to do business in this state under IC 23-1-16.

(b) The wording of the surety bond must be identical to the wording specified in 320 IAC 4-7-29.

(c) The owner or operator who uses a surety bond to satisfy the requirements of 320 IAC 4-7-6 must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the technical secretary. This standby trust fund must meet the requirements specified in 320 IAC 4-7-7, except that:

(1) an originally signed duplicate of the trust agreement must be submitted to the technical secretary with the surety bond; and

(2) until the standby trust fund is funded pursuant to the requirements of this section, the following are not required by 320 IAC 4-7:

(A) payments into the trust fund as specified in 320 IAC 4-7-7;

(B) updating of Schedule A of the trust agreement (see 320 IAC 4-7-28) to show current closure cost estimates;

(C) annual valuations as required by the trust agreement; and

(D) notices of nonpayment as required by the trust agreement.

(d) The bond must guarantee that the owner or operator will:

(1) fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

(2) fund the standby trust fund in an amount equal to the penal sum within fifteen (15) days after an order to begin closure is issued by the technical secretary or court of competent jurisdiction; or

(3) provide alternate financial assurance as specified in 320 IAC 4-7-7—320 IAC 4-7-11, and obtain the technical secretary's written approval of the assurance provided, within ninety (90) days after receipt by both the owner or operator and the technical secretary of a notice of cancellation of the bond from the surety.

(e) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(f) The penal sum of the bond must be in an amount at least equal to the current closure cost estimate, except as provided in 320 IAC 4-7-12.

(g) Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within sixty (60) days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the technical secretary, or obtain other financial assurance as specified in 320 IAC 4-7-7—320 IAC 4-7-11 to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the technical secretary.

(h) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the technical secretary. Cancellation may not occur, however, during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the technical secretary, as evidenced by the return receipts.

(i) The owner or operator may cancel the bond if the technical secretary has given prior written consent based on his receipt of evidence of alternate financial assurance as specified in 320 IAC 4-7-7—320 IAC 4-7-11. *(Indiana Environmental Management Board; 320 IAC 4-7-8; filed Apr 4, 1983, 10:22 am)*

SECTION 18. 320 IAC 4-7-9 is added to read as follows:

320 IAC 4-7-9 Closure letter of credit option; Cf. 40 CFR §265.143(c) (1982)

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-6; IC 13-7-10-1; IC 13-7-11

Sec. 9. (a) An owner or operator may satisfy the requirements of 320 IAC 4-7-6 by obtaining an irrevocable standby letter of credit which conforms to the requirements of this section and submitting the letter to the technical secretary. The issuing institution must be an entity which has the authority to issue letters of credit and whose letters-of-credit operations are regulated and examined by a federal or state of Indiana agency.

(b) The wording of the letter of credit must be identical to the wording specified in 320 IAC 4-7-30.

(c) An owner or operator who uses a letter of credit to satisfy the requirements of 320 IAC 4-7-6 must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the technical secretary will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the technical secretary. This standby trust fund must meet the requirements of the trust fund specified in 320 IAC 4-7-7, except that:

(1) an originally signed duplicate of the trust agreement must be submitted to the technical secretary with the letter of credit; and
(2) unless the standby trust fund is funded pursuant to the requirements of this section, the following are not required by 320 IAC 4-7:
  (A) payments into the trust fund as specified in 320 IAC 4-7-7;
  (B) updating of Schedule A of the trust agreement (see 320 IAC 4-7-28) to show current closure cost estimates;
  (C) annual valuations as required by the trust agreement; and
  (D) notices of nonpayment as required by the trust agreement.

(d) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: the EPA identification number, name, and address of the facility, and the amount of funds assured for closure of the facility by the letter of credit.

(e) The letter of credit must be irrevocable and issued for a period of at least one (1) year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one (1) year unless, at least one hundred twenty (120) days before the current expiration date, the issuing institution notifies both the owner or operator and the technical secretary by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the one hundred twenty (120) days will begin on the date when both the owner or operator and the technical secretary have received the notice, as evidenced by the return receipts.

(f) The letter of credit must be issued in an amount at least equal to the current closure cost estimate, except as provided in 320 IAC 4-7-12.

(g) Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within sixty (60) days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the technical secretary, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the technical secretary.

(h) Following a determination pursuant to IC 13-7-11 or Section 3008 of RCRA that the owner or operator has failed to perform final closure in accordance with the closure plan and other interim status requirements when required to do so, the technical secretary may draw on the letter of credit.

(i) If the owner or operator does not establish alternate financial assurance as specified in 320 IAC 4-7-7—320 IAC 4-7-11 and obtain written approval of such alternate assurance from the technical secretary within ninety (90) days after receipt by both the owner or operator and the technical secretary of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the technical secretary will draw on the letter of credit. The technical secretary may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last thirty (30) days of any such extension the technical secretary will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in 320 IAC 4-7-7—320 IAC 4-7-11 and obtain written approval of such assurance from the technical secretary.

(j) The technical secretary will return the letter of credit to the issuing institution for termination when:

(1) an owner or operator substitutes alternate financial assurance as specified in 320 IAC 4-7-7—320 IAC 4-7-11; or

(2) the technical secretary releases the owner or operator from the requirements of this section in accordance with 320 IAC 4-7-14.

(Indiana Environmental Management Board; 320 IAC 4-7-9; filed Apr 4, 1988, 10:22 am)

SECTION 19. 320 IAC 4-7-10 is added to read as follows:

320 IAC 4-7-10 Closure insurance option; see 40 CFR §265.143(d) (1982)

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 10. (a) An owner or operator may satisfy the requirements of 320 IAC 4-7-6 by obtaining closure insurance which conforms to the requirements of this section and submitting a certificate of such insurance to the technical secretary. The owner or operator must submit the certificate of insurance to the technical secretary or establish other financial assurance as specified in 320 IAC 4-7-7—320 IAC 4-7-11. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states.

(b) The wording of the certificate of insurance must be identical to the wording specified in 320 IAC 4-7-31.

(c) The closure insurance policy must be issued for a face amount at least equal to the current closure cost estimate, except as provided in 320 IAC 4-7-12. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(d) The closure insurance policy must guarantee that funds will be available to close the facility whenever final closure occurs. The policy must also guarantee that once final closure begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the technical secretary, to such party or parties as the technical secretary specifies.

(e) After beginning final closure, an owner or operator or any other person authorized to perform closure may request reimbursement for closure expenditures by submitting itemized bills to the technical secretary. Within sixty (60) days after receiving bills for closure activities, the technical secretary will determine whether the closure expenditures are in accordance with the closure plan or otherwise justified, and if so, he will instruct the insurer to make reimbursement in such amounts as the technical secretary specifies in writing. If the technical secretary has reason to believe that the cost of closure will be significantly greater than the face amount of the policy, he may withhold reimbursement of such amounts as he deems prudent until he determines, in accordance with 320 IAC 4-7-14, that the owner or operator is no longer required to maintain financial assurance for closure of the facility.

(f) The owner or operator must maintain the policy in full force and effect until the technical secretary consents to termination of the policy by the owner or operator as specified in subsection (j) of this section. Failure to pay the premium, without substitution of alternate financial assurance as specified in 320 IAC 4-7-7—320 IAC 4-7-11, will constitute a significant violation of 320 IAC 4-7, warranting such remedy as the technical secretary deems necessary. Such violation will be deemed to begin upon receipt by the technical secretary of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

(g) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

(h) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the technical secretary. Cancellation, termination, or failure to renew may not occur, however, during the one hundred twenty (120) days beginning with the date of receipt of the notice by both the technical secretary and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

(1) the technical secretary deems the facility abandoned; or
(2) the facility permit is terminated or revoked; or
(3) closure is ordered by the technical secretary or court of competent jurisdiction; or
(4) the owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or
(5) the premium due is paid.

(i) Whenever the current closure cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within sixty (60) days after the increase, must either cause the face amount to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the technical secretary, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the technical secretary.

(j) The technical secretary will give written consent to the owner or operator that he may terminate the insurance policy when:

(1) an owner or operator substitutes alternate financial assurance as specified in 320 IAC 4-7-7—320 IAC 4-7-11; or
(2) the technical secretary releases the owner or operator from the requirements of this section in accordance with 320 IAC 4-7-14.

(Indiana Environmental Management Board; 320 IAC 4-7-10; filed Apr 4, 1983, 10:22 am)

SECTION 20. 320 IAC 4-7-11 is added to read as follows:

320 IAC 4-7-11 Financial test and corporate guarantee for closure option; Cf. 40 CFR §265.143(e) (1982)

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 11. (a) An owner or operator may satisfy the requirements of 320 IAC 4-7-6 by demonstrating that he passes a financial test as specified in this section. To pass this test the owner or operator must meet the criteria of either subsection (a)(1) or subsection (a)(2) of this section:

(1) The owner or operator must have:
  (A) two of the following three ratios: A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and
  (B) net working capital and tangible net worth each at least six (6) times the sum of the current closure and post-closure cost estimates; and
  (C) tangible net worth of at least ten million dollars; and
  (D) assets in the United States amounting to at least ninety percent (90%) of his total assets or at least six (6) times the sum of the current closure and post-closure cost estimates.
(2) The owner or operator must have:
  (A) a current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and
  (B) tangible net worth at least six (6) times the sum of the current closure and post-closure cost estimates; and
  (C) tangible net worth of at least ten million dollars; and
  (D) assets located in the United States amounting to at least ninety percent (90%) of his total assets or at least six (6) times the sum of the current closure and post-closure cost estimates.

(b) The phrase "current closure and post-closure cost estimates" as used in subsection (a) of this section refers to the cost estimates required to be shown in 320 IAC 4-7-32 of the letter from the owner's or operator's chief financial officer.

(c) To demonstrate that he meets this test, the owner or operator must submit the following items to the technical secretary:

(1) a letter signed by the owner's or operator's chief financial officer and worded as specified in 320 IAC 4-7-32; and
(2) a copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and
(3) a special report from the owner's or operator's independent certified public accountant to the owner or operator stating:
  (A) he has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the

latest fiscal year with the amounts in such financial statements; and

(B) in connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(d) After the initial submission of items specified in subsection (c) of this section, the owner or operator must send updated information to the technical secretary within ninety (90) days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (c) of this section.

(e) If the owner or operator no longer meets the requirements of subsection (a) of this section, he must send notice to the technical secretary of intent to establish alternate financial assurance as specified in this section. The notice must be sent by certified mail within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within one hundred twenty (120) days after the end of such fiscal year.

(f) The technical secretary may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (a) of this section, require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (c) of this section. If the technical secretary finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (a) of this section, the owner or operator must provide alternate financial assurance as specified in 320 IAC 4-7-7—320 IAC 4-7-11 within thirty (30) days after notification of such a finding.

(g) The technical secretary may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements (see subsection (c)(2) of this section). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The technical secretary will evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance as specified in this section within thirty (30) days after notification of the disallowance.

(h) The owner or operator is no longer required to submit the items specified in subsection (c) of this section when:

(1) an owner or operator substitutes alternate financial assurance as specified in 320 IAC 4-7-7—320 IAC 4-7-11; or

(2) the technical secretary releases the owner or operator from the requirements of this section in accordance with 320 IAC 4-7-14.

(i) An owner or operator may meet the requirements of this section by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the parent corporation of the owner or operator. The guarantor must meet the requirements for owners or operators in subsections (a)-(g) of this section and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in 320 IAC 4-7-34. The corporate guarantee must accompany the items sent to the technical secretary as specified in subsection (c) of this section. The terms of the corporate guarantee must provide that:

(1) If the owner or operator fails to perform final closure of a facility covered by the corporate guarantee in accordance with the closure plan and other interim status requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in 320 IAC 4-7-7 in the name of the owner or operator.

(2) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the technical secretary. Cancellation may not occur, however, during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the technical secretary, as evidenced by the return receipts.

(3) If the owner or operator fails to provide alternate financial assurance as specified in this section and obtain the written approval of such alternate assurance from the technical secretary within ninety (90) days after receipt by both owner or operator and the technical secretary of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

(Indiana Environmental Management Board; 320 IAC 4-7-11; filed Apr 4, 1983, 10:22 am)

SECTION 21. 320 IAC 4-7-12 is added to read as follows:

320 IAC 4-7-12 Use of multiple financial mechanisms option; Cf. 40 CFR §265.143(f) (1982)

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4

Affected: IC 13-7-8.5-5, IC 13-7-10-1

Sec. 12. An owner or operator may satisfy the requirements of 320 IAC 4-7-6 by establishing more than one (1) financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds, letters of credit, and insurance. The mechanisms must be as specified in 320 IAC 4-7-7—320 IAC 4-7-10, respectively, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, he may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The technical secretary may use any or all of the mechanisms to provide for closure of the facility. *(Indiana Environmental Management Board; 320 IAC 4-7-12; filed Apr 4, 1983, 10:22 am)*

SECTION 22. 320 IAC 4-7-13 is added to read as follows:

320 IAC 4-7-13 Use of a financial mechanism for multiple facilities option; Cf. 40 CFR §265.143(g) (1982)

Authority: IC 13-7-3-1; IC 13-7-6-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-6; IC 13-7-10-1

Sec. 13. An owner or operator may use a financial assurance mechanism specified in 320 IAC 4-7-6 to meet the requirements of 320 IAC 4-7-6 for more than one facility. Evidence of financial assurance submitted to the technical secretary must include a list showing, for each facility, the EPA identification number, name, address, and the amount of funds for closure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for closure of any of the facilities covered by the mechanism, the technical secretary may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism. *(Indiana Environmental Management Board; 320 IAC 4-7-13; filed Apr 4, 1983, 10:22 am)*

SECTION 23. 320 IAC 4-7-14 is added to read as follows:

320 IAC 4-7-14 Exception to 320 IAC 4-7-6; Cf. 40 CFR §265.143(h) (1982)

Authority: IC 13-7-3-1; IC 13-7-6-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-6; IC 13-7-10-1

Sec. 14. Within sixty (60) days after receiving certifications from the owner or operator and an independent registered professional engineer that closure has been accomplished in accordance with the closure plan, the technical secretary will notify the owner or operator in writing that he is no longer required by 320 IAC 4-7-6 to maintain financial assurance for closure of the particular facility, unless the technical secretary has reason to believe that closure has not been in accordance with the closure plan. *(Indiana Environmental Management Board, 320 IAC 4-7-14; filed Apr 4, 1983, 10:22 am)*

SECTION 24. 320 IAC 4-7-15 is added to read as follows:

320 IAC 4-7-15 Cost estimate for post-closure care; Cf. 40 CFR §265.144 (1982)

Authority: IC 13-7-3-1, IC 13-7-6-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 15. (a) The owner or operator of a disposal facility must prepare a written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure regulations in 320 IAC 4-7-1 (40 CFR 265.117—265.120). The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required under 320 IAC 4-7-1.

(b) During the operating life of the facility, the owner or operator must adjust the post-closure cost estimate for inflation within thirty (30) days after each anniversary of the date on which the first post-closure cost estimate was prepared. The adjustment must be made as specified in subsections (b)(1) and (b)(2) of this section, using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its survey of current business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(1) The first adjustment is made by multiplying the post-closure cost estimate by the inflation factor. The result is the adjusted post-closure cost estimate.
(2) Subsequent adjustments are made by multiplying the latest adjusted post-closure cost estimate by the latest inflation factor.

(c) The owner or operator must revise the post-closure cost estimate during the operating life of the facility whenever a change in the post-closure plan increases the cost of post-closure care. The revised post-closure cost estimate must be adjusted for inflation as specified in subsection (b) of this section.

(d) The owner or operator must keep the following at the facility during the operating life of the facility: the latest post-closure cost estimate prepared in accordance with subsections (a) and (c) of this section and, when this estimate has been adjusted in accordance with subsection (b) of this section, the latest adjusted post-closure cost estimate. *(Indiana Environmental Management Board; 320 IAC 4-7-15; filed Apr 4, 1983, 10:22 am)*

SECTION 25. 320 IAC 4-7-16 is added to read as follows:

320 IAC 4-7-16 Financial assurance for post-closure care; optional approaches

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-6, IC 13-7-10-1

Sec. 16. After July 1, 1982, an owner or operator of each disposal facility must establish financial assurance for post-closure care of the facility. He must choose from the options as specified in 320 IAC 4-7-17—320 IAC 4-7-21. *(Indiana Environmental Management Board; 320 IAC 4-7-16; filed Apr 4, 1983, 10:22 am)*

SECTION 26. 320 IAC 4-7-17 is added to read as follows:

320 IAC 4-7-17 Post-closure trust fund option; Cf. 40 CFR §265.145(a) (1982)

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5; IC 13-7-10-1

Sec. 17. (a) An owner or operator may satisfy the requirements of 320 IAC 4-7-16 by establishing a post-closure trust fund which conforms to the requirements of this section and submitting an originally signed duplicate of the trust agreement to the technical secretary. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state of Indiana agency.

(b) The wording of the trust agreement must be identical to the wording specified in 320 IAC 4-7-28(a), and the trust agreement must be accompanied by a formal certificate of acknowledgment (for example, see 320 IAC 4-7-28(b) and (c)). Schedule A of the trust agreement must be updated within sixty (60) days after a change in the amount of the current post-closure cost estimate covered by the agreement.

(c) Payment's [*sic.*] into the trust fund must be made annually by the owner or operator over the 20 years beginning with July 1, 1982 or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments into the post-closure trust fund must be made as follows:

(1) The first payment must be made by July 1 1982, except as provided in subsection (e) of this section. The first payment must be at least equal to the current post-closure cost estimate, except as provided in 320 IAC 4-7-22, divided by the number of years in the pay-in period.

(2) Subsequent payments must be made no later than thirty (30) days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next payment} = \frac{CE\text{-}CV}{Y}$$

where CE is the current post-closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(d) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the current post-closure cost estimate at the time the fund is established. However, he must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in subsection (c) of this section.

(e) If the owner or operator establishes a post-closure trust fund after having used one or more alternate mechanisms specified in 320 IAC 4-7-17—320 IAC 4-7-21, his first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made as specified in subsection (c) of this section.

(f) After the pay-in period is completed, whenever the current post-closure cost estimate changes during the operating life of the facility, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within sixty (60) days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current post-closure cost estimate, or obtain other financial assurance as specified in 320 IAC 4-7-17—320 IAC 4-7-21 to cover the difference.

(g) During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current post-closure cost estimate, the owner or operator may submit a written request to the technical secretary for release of the amount in excess of the current post-closure cost estimate.

(h) If an owner or operator substitutes other financial assurance as specified in 320 IAC 4-7-17—320 IAC 4-7-21 for all or part of the trust fund, he may submit a written request to the technical secretary for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.

(i) Within sixty (60) days after receiving a request from the owner or operator for release of funds as specified in subsections (g) or (h) of this section, the technical secretary will instruct the trustee to release to the owner or operator such funds as the technical secretary specifies in writing.

(j) During the period of post-closure care, the technical secretary may approve a release of funds if the owner or operator demonstrates to the technical secretary that the value of the trust fund exceeds the remaining cost of post-closure care.

(k) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure expenditures by submitting itemized bills to the technical secretary. Within sixty (60) days after receiving bills for post-closure activities, the technical secretary will determine whether the post-closure expenditures are in accordance with the post-closure plan or otherwise justified, and if so, he will instruct the trustee to make reimbursement in such amounts as the technical secretary specifies in writing.

(l) The technical secretary will agree to termination of the trust when:

(1) an owner or operator substitutes alternate financial assurance as specified in 320 IAC 4-7-17—320 IAC 4-7-21; or

(2) the technical secretary releases the owner or operator from the requirements of 320 IAC 4-7-16 in accordance with 320 IAC 4-7-24.

(Indiana Environmental Management Board; 320 IAC 4-7-17; filed Apr 4, 1983, 10:22 am)

SECTION 27. 320 IAC 4-7-18 is added to read as follows:

320 IAC 4-7-18 Surety bond guaranteeing payment into a post-closure trust fund option; Cf. 40 CFR 265.145 (b) (1982)

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1; IC 23-1-16-5

Sec. 18 (a) An owner or operator may satisfy the requirements of 320 IAC 4-7-16 by obtaining a surety bond which conforms to the requirements of this section and submitting the bond to the technical secretary. The surety company issuing the bond must, at a minimum, be authorized to do business in this state under IC 23-1-16.

(b) The wording of the surety bond must be identical to the wording specified in 320 IAC 4-7-29.

(c) The owner or operator who uses a surety bond to satisfy the requirements of 320 IAC 4-7-16 must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the technical secretary. This standby trust fund must meet the requirements specified in 320 IAC 4-7-17, except that:

(1) an originally signed duplicate of the trust agreement must be submitted to the technical secretary with the surety bond; and

(2) until the standby trust fund is funded pursuant to the requirements of this section, the following are not required by 320 IAC 4-7:

(A) payments into the trust fund as specified in 320 IAC 4-7-17;

(B) updating of Schedule A of the trust agreement (see 320 IAC 4-7-29) to show current post-closure cost estimates;

(C) annual valuations as required by the trust agreement; and

(D) notices of nonpayment as required by the trust agreement.

(d) The bond must guarantee that the owner or operator will:

(1) fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

(2) fund the standby trust fund in an amount equal to the penal sum within fifteen (15) days after an order to begin closure is issued by the technical secretary or court of competent jurisdiction; or

(3) provide alternate financial assurance as specified in 320 IAC 4-7-17—320 IAC 4-7-21, and obtain the technical secretary's written approval of the assurance provided, within ninety (90) days after receipt by both the owner or operator and the technical secretary of a notice of cancellation of the bond from the surety.

(e) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(f) The penal sum of the bond must be in an amount at least equal to the current post-closure cost estimate, except as provided in 320 IAC 4-7-22.

(g) Whenever the current post-closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within sixty (60) days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the technical secretary, or obtain other financial assurance as specified in 320 IAC 4-7-17—320 IAC 4-7-21 to cover the increase. Whenever the current post-closure cost estimate decreases, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the technical secretary.

(h) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the technical secretary. Cancellation may not occur, however, during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the technical secretary, as evidenced by the return receipts.

(i) The owner or operator may cancel the bond if the technical secretary has given prior written consent based on his receipt of evidence of alternate financial assurance as specified in 320 IAC 4-7-17—320 IAC 4-7-21. *(Indiana Environmental Management Board; 320 IAC 4-7-18; filed Apr 4, 1983, 10:22 am)*

SECTION 28. 320 IAC 4-7-19 is added to read as follows:

320 IAC 4-7-19 Post-closure letter of credit option; Cf. 40 CFR §265.145(c)(1982)

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1; IC 13-7-11

Sec. 19. (a) An owner or operator may satisfy the requirements of 320 IAC 4-7-16 by obtaining an irrevocable standby letter of credit which conforms to the requirements of this section and submitting the letter to the technical secretary. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state of Indiana agency.

(b) The wording of the letter of credit must be identical to the wording specified in 320 IAC 4-7-30.

(c) An owner or operator who uses a letter of credit to satisfy the requirements of 320 IAC 4-7-16 must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the technical secretary will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the technical secretary. This standby trust fund must meet the requirements of the trust fund specified in 320 IAC 4-7-17, except that:

(1) an originally signed duplicate of the trust agreement must be submitted to the technical secretary with the letter of credit; and
(2) unless the standby trust fund is funded pursuant to the requirements of this section, the following are not required by 320 IAC 4-7:
  (A) payments into the trust fund as specified in 320 IAC 4-7-17;
  (B) updating of Schedule A of the trust agreement (see 320 IAC 4-7-28) to show current post-closure cost estimates;
  (C) annual valuations as required by the trust agreement; and
  (D) notices of nonpayment as required by the trust agreement.

(d) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: the EPA identification number, name, and address of the facility, and the amount of funds assured for post-closure care of the facility by the letter of credit.

(e) The letter of credit must be irrevocable and issued for a period of at least one (1) year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one (1) year unless, at least one hundred twenty (120) days before the current expiration date, the issuing institution notifies both the owner or operator and the technical secretary by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the one hundred twenty (120) days will begin on the date when both the owner or operator and the technical secretary have received the notice, as evidenced by the return receipts.

(f) The letter of credit must be issued in an amount at least equal to the current post-closure cost estimate, except as provided in 320 IAC 4-7-22.

(g) Whenever the current post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within sixty (60) days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current post-closure cost estimate and submit evidence of such increase to the technical secretary, or obtain other financial assurance as specified in 320 IAC 4-7-17—320 IAC 4-7-21 to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current post-closure cost estimate following written approval by the technical secretary.

(h) During the period of post-closure care, the technical secretary may approve a decrease in the amount of the letter of credit if the owner or operator demonstrates to the technical secretary that the amount exceeds the remaining cost of post-closure care.

(i) Following a determination pursuant to IC 13-7-11 or Section 3008 of RCRA that the owner or operator has failed to perform post-closure care in accordance with the post-closure plan and other requirements of 320 IAC 4, the technical secretary may draw on the letter of credit.

(j) If the owner or operator does not establish alternate financial assurance as specified in 320 IAC 4-7-17—320 IAC 4-7-21 and obtain written approval of such alternate assurance from the technical secretary within ninety (90) days after receipt by both the owner or operator and the technical secretary of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the technical secretary will draw on the letter of credit. The technical secretary may delay the drawing if the issuing institution grants an extension of the term of credit. During the last thirty (30) days of any such extension the technical secretary will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in 320 IAC 4-7-17—320 IAC 4-7-21 and obtain written approval of such assurance from the technical secretary.

(k) The technical secretary will return the letter of credit to the issuing institution for termination when:

(1) an owner or operator substitutes alternate financial assurance as specified in 320 IAC 4-7-17—320 IAC 4-7-21; or

(2) the technical secretary releases the owner or operator from the requirements of 320 IAC 4-7-16 in accordance with 320 IAC 4-7-24.

(Indiana Environmental Management Board; 320 IAC 4-7-19; filed Apr 4, 1983, 10:22 am)

SECTION 29. 320 IAC 4-7-20 is added to read as follows:

320 IAC 4-7-20 Post-closure insurance option; see 40 CFR §265.145(d) (1982)

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 20. **(a)** An owner or operator may satisfy the requirements of 320 IAC 4-7-16 by obtaining post-closure insurance which conforms to the requirements of this section and submitting a certificate of such insurance to the technical secretary. The owner or operator must submit the certificate of insurance to the technical secretary or establish other financial assurance as specified in 320 IAC 4-7-17—320 IAC 4-7-21. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states.

(b) The wording of the certificate of insurance must be identical to the wording specified in 320 IAC 4-7-31.

(c) The post-closure insurance policy must be issued for a face amount at least equal to the current post-closure cost estimate, except as provided in 320 IAC 4-7-22. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(d) The post-closure insurance policy must guarantee that funds will be available to provide post-closure care of the facility whenever the post-closure period begins. The policy must also guarantee that once post-closure care begins the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the technical secretary, to such party or parties as the technical secretary specifies.

(e) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure expenditures by submitting itemized bills to the technical secretary. Within sixty (60) days after receiving bills for post-closure activities, the technical secretary will determine whether the post-closure expenditures are in accordance with the post-closure plan or otherwise justified, and if so, he will instruct the insurer to make reimbursement in such amounts as the technical secretary specifies in writing.

(f) The owner or operator must maintain the policy in full force and effect until the technical secretary consents to termination of the policy by the owner or operator as specified in subsection (k) of this section. Failure to pay the premium, without substitution of alternate financial assurance as specified in 320 IAC 4-7-17—320 IAC 4-7-21, will constitute a significant violation of 320 IAC 4-7-20, warranting such remedy as the technical secretary deems necessary. Such violation will be deemed to begin upon receipt by the technical secretary of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

(g) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

(h) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the technical secretary. Cancellation, termination, or failure to renew may not occur, however, during the one hundred twenty (120) days beginning with the date of receipt of the notice by both the technical secretary and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

(1) the technical secretary deems the facility abandoned; or
(2) the facility's permit is terminated or revoked; or
(3) closure is ordered by the technical secretary or court of competent jurisdiction; or
(4) the owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or
(5) the premium due is paid.

(i) Whenever the current post-closure cost estimate increases to an amount greater than the face amount of the policy during the operating life of the facility, the owner or operator, within sixty (60) days after the increase, must either cause the face amount to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the technical secretary, or obtain other financial assurance as specified in 320 IAC 4-7-17—320 IAC 4-7-21 to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the face amount may be reduced to the amount of the current post-closure cost estimate following written approval by the technical secretary.

(j) Commencing on the date that liability to make payments pursuant to the policy accrues, the insurer will thereafter annually increase the face amount of the policy. Such increase must be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to eighty-five percent (85%) of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for 26-week Treasury securities.

(k) The technical secretary will give written consent to the owner or operator that he may terminate the insurance policy when:

(1) an owner or operator substitutes alternate financial assurance as specified in 320 IAC 4-7-17—320 IAC 4-7-21; or
(2) the technical secretary releases the owner or operator from the requirements of 320 IAC 4-7-16 in accordance with 320 IAC 4-7-24.

(Indiana Environmental Management Board; 320 IAC 4-7-20, filed Apr 4, 1983, 10:22 am)

SECTION 30. 320 IAC 4-7-21 is added to read as follows:

320 IAC 4-7-21 Financial test and corporate guarantee for post-closure care option; Cf. 40 CFR §265.145(e) (1982)

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 21. (a) An owner or operator may satisfy the requirements of 320 IAC 4-7-16 by demonstrating that he passes a financial test as specified in this section. To pass this test the owner or operator must meet the criteria either of subsections (a)(1) or (a)(2) of this section:

(1) The owner or operator must have:
  (A) two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and
  (B) net working capital and tangible net worth each at least six (6) times the sum of the current closure and post-closure cost estimates; and
  (C) tangible net worth of at least ten million dollars; and
  (D) assets in the United States amounting to at least ninety percent (90%) of his total assets or at least six (6) times the sum of the current closure and post-closure cost estimates.
(2) The owner or operator must have:
  (A) a current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's; and
  (B) tangible net worth at least six (6) times the sum of the current closure and post-closure cost estimates; and

(C) tangible net worth of at least ten million dollars; and

(D) assets located in the United States amounting to at least ninety percent (90%) of his total assets or at least six (6) times the sum of current closure and post-closure cost estimates.

(b) The phrase "current closure and post-closure cost estimates" as used in subsection (a) of this section refers to the cost estimates required to be shown in 320 IAC 4-7-32 of the letter from the owner's or operator's chief financial officer.

(c) To demonstrate that he meets this test, the owner or operator must submit the following items to the technical secretary:

(1) a letter signed by the owner's or operator's chief financial officer and worded as specified in 320 IAC 4-7-32; and

(2) a copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(3) a special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

(A) he has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

(B) in connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(d) After the initial submission of items specified in subsection (c) of this section, the owner or operator must send updated information to the technical secretary within ninety (90) days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (c) of this section.

(e) If the owner or operator no longer meets the requirements of subsection (a) of this section, he must send notice to the technical secretary of intent to establish alternate financial assurance as specified in 320 IAC 4-7-17—320 IAC 4-7-21. The notice must be sent by certified mail within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within one hundred twenty (120) days after the end of such fiscal year.

(f) The technical secretary may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (a) of this section, require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (c) of this section. If the technical secretary finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (a) of this section, the owner or operator must provide alternate financial assurance as specified in 320 IAC 4-7-17—320 IAC 4-7-21 within thirty (30) days after notification of such a finding.

(g) The technical secretary may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements (see subsection (c)(2) of this section). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The technical secretary will evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance as specified in 320 IAC 4-7-17—320 IAC 4-7-21 within thirty (30) days after notification of the disallowance.

(h) During the period of post-closure care, the technical secretary may approve a decrease in the current post-closure cost estimate for which this test demonstrates financial assurance if the owner or operator demonstrates to the technical secretary that the amount of the cost estimate exceeds the remaining cost of post-closure care.

(i) The owner or operator is no longer required to submit the items specified in subsection (c) of this section when:

(1) an owner or operator substitutes alternate financial assurance as specified in 320 IAC 4-7-17—320 IAC 4-7-21; or

(2) the technical secretary releases the owner or operator from the requirements of 320 IAC 4-7-16 in accordance with 320 IAC 4-7-24.

(j) An owner or operator may meet the requirements of this section by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the parent corporation of the owner or operator. The guarantor must meet the requirements for owners or operators in subsections (a)—(h) of this section and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in 320 IAC 4-7-34. The corporate guarantee must accompany the items sent to the technical secretary as specified in subsection (c) of this section. The terms of the corporate guarantee must provide that:

(1) If the owner or operator fails to perform post-closure care of a facility covered by the corporate guarantee in accordance with a post-closure plan and other requirements of 320 IAC 4 whenever required to do so, the guarantor will do so or establish a trust fund as specified in 320 IAC 4-7-17 in the name of the owner or operator.

(2) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the technical secretary. Cancellation may not occur, however, during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the technical secretary, as evidence by the return receipts.

(3) If the owner or operator fails to provide alternate financial assurance as specified in 320 IAC 4-7-17—320 IAC 4-7-21 and obtain the written approval of such alternate assurance from the technical secretary within ninety (90) days after receipt by both the owner or operator and the technical secretary of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

(Indiana Environmental Management Board; 320 IAC 4-7-21; filed Apr 4, 1983, 10:22 am)

SECTION 31. 320 IAC 4-7-22 is added to read as follows:

320 IAC 4-7-22 Use of multiple financial mechanisms option; Cf. 40 CFR §265.145(f) (1982)

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 22. An owner or operator may satisfy the requirements of 320 IAC 4-7-16 by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds, letters of credit, and insurance. The mechanisms must be as specified in 320 IAC 4-7-17—320 IAC 4-7-20, respectively, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current post-closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, he may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The technical secretary may use any or all of the mechanisms to provide for post-closure care of the facility. *(Indiana Environmental Management Board; 320 IAC 4-7-22; filed Apr 4, 1983, 10:22 am)*

SECTION 32. 320 IAC 4-7-23 is added to read as follows:

320 IAC 4-7-23 Use of a financial mechanism for multiple facilities option; Cf. 40 CFR §265.145(g) (1982)

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 23. An owner or operator may use a financial assurance mechanism specified in 320 IAC 4-7-16 to meet the requirements of 320 IAC 4-7-16 for more than one facility. Evidence of financial assurance submitted to the technical secretary must include a list showing, for each facility, the EPA identification number, name, address, and the amount of funds for post-closure care assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for post-closure care of any of the facilities covered by the mechanism, the technical secretary may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism. *(Indiana Environmental Management Board; 320 IAC 4-7-23; filed Apr 4, 1983, 10:22 am)*

SECTION 33. 320 IAC 4-7-24 is added to read as follows:

320 IAC 4-7-24 Exception to 320 IAC 4-7-16; Cf. 40 CFR §265.145(h) (1982)

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 24. When an owner or operator has completed, to the satisfaction of the technical secretary, all post-closure care requirements in accordance with the post-closure plan, the technical secretary will, at the request of the owner or operator, notify him in writing that he is no longer required by this section to maintain financial assurance for post-closure care of the particular facility. *(Indiana Environmental Management Board; 320 IAC 4-7-24; filed Apr 4, 1983, 10:22 am)*

SECTION 34. 320 IAC 4-7-25 is added to read as follows:

320 IAC 4-7-25 Use of a mechanism for financial assurance of both closure and post-closure care; Cf. 40 CFR §265.146 (1982)

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 25. An owner or operator may satisfy the requirements for financial assurance for both closure and post-closure care for one or more facilities by using a trust fund, surety bond, letter of credit, insurance, financial test, or corporate gurantee [*sic.*] that meets the specifications for the mechanism in both 320 IAC 4-7-6—320 IAC 4-7-14 and 320 IAC 4-7-16—320 IAC 4-7-24. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for financial assurance of closure and of post-closure care. *(Indiana Environmental Management Board; 320 IAC 4-7-25; filed Apr 4, 1983, 10:22 am)*

SECTION 35. 320 IAC 4-7-26 is added to read as follows:

320 IAC 4-7-26 Liability requirements; Cf. 40 CFR §265.147 (1982)

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 26. (a) After July 1, 1982, an owner or operator for a hazardous waste treatment, storage, or disposal facility or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for sudden accidental occurrences in the amount of at least one million dollars per occurrence with an annual aggregate of at least two million dollars, exclusive of legal defense costs. This liability coverage may be demonstrated in one of three ways, as specified in this subsection.

An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in this section.

Each insurance policy must be amended by attachment of the hazardous waste facility liability endorsement or evidenced by a certificate of liability insurance. The wording of the endorsement must be identical to the wording specified in 320 IAC 4-7-35. The wording of the certificate of insurance must be identical to the wording specified in 320 IAC 4-7-36. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the technical secretary. If requested by the technical secretary, the owner or operator must provide a signed duplicate original of the insurance policy.

Each insurance policy must be issued by an insurer which, at a minimum, is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states.

An owner or operator may meet the requirements of this section by passing a financial test for liability coverage as specified in subsection (f) of this section.

An owner or operator may demonstrate the required liability coverage through use of both the financial test and insurance as these mechanisms are specified in this section. The amounts of coverage demonstrated must total at least the minimum amounts required by this section.

(b) Any owner or operator of a surface impoundment, landfill, or land treatment facility which is used to manage hazardous waste, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for nonsudden accidental occurrences in the amount of at least three million dollars per occurrence with an annual aggregate of at least six million dollars, exclusive of legal defense costs. This liability coverage may be demonstrated in one of three ways, as specified in this subsection.

An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in this section.

Each insurance policy must be amended by attachment of the hazardous waste facility liability endorsement or evidenced by a certificate of liability insurance. The wording of the endorsement must be identical to the wording specified in 320 IAC 4-7-35. The wording of the certificate of insurance must be identical to the wording specified in 320 IAC 4-7-36. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the technical secretary. If requested by the technical secretary, the owner or operator must provide a signed duplicate original of the insurance policy.

Each insurance policy must be issued by an insurer which, at a minimum, is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states.

An owner or operator may meet the requirements of this section by passing a financial test for liability coverage as specified in subsection (f) of this section.

An owner or operator may demonstrate the required liability coverage through use of both the financial test and insurance as these mechanisms are specified in this section. The amounts of coverage must total at least the minimum amounts required by this section.

The required liability coverage for nonsudden accidental occurrences must be demonstrated by the dates listed below. The total sales or revenues of the owner or operator in all lines of business, in the fiscal year preceding July 15, 1982, will determine which of the dates applies. If the owner and operator of a facility are two different parties, or if there is more than one owner or operator, the sales or revenues of the owner or operator with the largest sales or revenues will determine the date by which the coverage must be demonstrated. The dates are as follows:

(1) For an owner or operator with sales or revenues totalling ten million dollars or more, January 16, 1983.
(2) For an owner or operator with sales or revenues greater than five million dollars but less than ten million dollars, January 16, 1984.
(3) All other owners or operators, January 16, 1985.

Within ninety (90) days of the effective date of this rule, an owner or operator who is within either of the last two categories (subsections (b)(2) or (b)(3) of this section) must, unless he has demonstrated liability coverage for nonsudden accidental occurrences, send a letter to the technical secretary stating the date by which he plans to establish such coverage.

(c) If an owner or operator can demonstrate to the satisfaction of the technical secretary that the levels of financial responsibility required by subsections (a) or (b) of this section are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the owner or operator may obtain a variance from the technical secretary. The request for a variance must be submitted in writing to the technical secretary. If granted, the variance will take the form of an adjusted level of required liability coverage, such level to be based on the technical secretary's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The technical secretary may require an owner or operator who requests a variance to provide such technical and engineering information as is deemed necessary by the technical secretary to determine a level of financial responsibility other than that required by subsections (a) or (b) of this section. The technical secretary will process a variance request as if it were a permit modification request under 320 IAC 4-9. Notwithstanding any other provision, the technical secretary may hold a public hearing at his discretion or whenever he finds, on the basis of requests for a public hearing, a significant degree of public interest in a tentative decision to grant a variance.

(d) If the technical secretary determines that the levels of financial responsibility required by subsections (a) or (b) of this section are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the technical secretary may adjust the level of financial responsibility required under subsections (a) or (b) of this section as may be necessary to protect human health and the environment. This adjusted level will be based on the technical secretary's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the technical secretary determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, landfill, or land treatment facility, he may require that an owner or operator of the facility comply with subsection (b) of this section. An owner or operator must furnish to the technical secretary, within a reasonable time, any information which the technical secretary requests to determine whether cause exists for such adjustments of level or type of coverage. The technical secretary will process an adjustment of the level of required coverage as if it were a permit modification under 320 IAC 4-9. Notwithstanding any other provision, the technical secretary may hold a public hearing at his discretion or whenever he finds, on the basis of requests for a public hearing, a significant degree of public interest in a tentative decision to adjust the level or type of required coverage.

(e) An owner or operator must continuously provide liability coverage for a facility as required by this section until certifications of closure of the facility, as specified in 320 IAC 4-7-1, are received by the technical secretary.

(f) An owner or operator may satisfy the requirements of this section by demonstrating that he passes this financial test. Either:

(1) The owner or operator must have:
    (A) net working capital and tangible net worth each at least six (6) times the amount of liability coverage to be demonstrated by this test; and

(B) tangible net worth of at least ten million dollars; and

(C) assets in the United States amouting [*sic.*] to either: (1) at least ninety percent (90%) of his total assets; or (2) at least six (6) times the amount of liability coverage to be demonstrated by this test.

(2) The owner or operator must have:

(A) a current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

(B) tangible net worth of at least ten million dollars; and

(C) tangible net worth at least six (6) times the amount of liability coverage to be demonstrated by this test; and

(D) assets in the United States amounting to either: (1) at least ninety percent (90%) of his total assets; or (2) at least six (6) times the amount of liability coverage to be demonstrated by this test.

The phrase "amount of liability coverage" as used in this subsection refers to the annual aggregate amounts for which coverage is required under subsections (a) and (b) of this section.

To demonstrate that he meets this test, the owner or operator must submit the following three items to the technical secretary:

(1) A letter signed by the owner's or operator's chief financial officer and worded as specified in 320 IAC 4-7-33. If an owner or operator is using the financial test to demonstrate both assurance for closure or post-closure care, as specified by 320 IAC 4-7-11, and 320 IAC 4-7-21, and liability coverage, he must submit the letter specified in 320 IAC 4-7-33 to cover both forms of financial responsibility; a separate letter as specified in 320 IAC 4-7-32 is not required.

(2) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year.

(3) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

(A) he has compared the data which the letter from the chief financial officer specified as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

(B) in connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

After the initial submission of items specified in this subsection, the owner or operator must send updated information to the technical secretary within ninety (90) days after the close of each succeeding fiscal year. This information must consist of all three items specified in this subsection.

If the owner or operator no longer meets the requirements of this subsection, he must obtain insurance for the entire amount of required liability coverage as specified in this section. Evidence of insurance must be submitted to the technical secretary within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

The technical secretary may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The technical secretary will evaluate other qualifications on an individual basis. The owner or operator must provide evidence of insurance for the entire amount of required liability coverage as specified in this section within thirty (30) days after notification of disallowance. *(Indiana Environmental Management Board; 320 IAC 4-7-26; filed Apr 4, 1983, 10:22 am)*

SECTION 36. 320 IAC 4-7-27 is added to read as follows:

320 IAC 4-7-27 **Incapacity of owners, operators, guarantors, or financial institutions; Cf. 40 CFR §265.148 (1982)**

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4

Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 27. (a) An owner or operator must notify the technical secretary by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the owner or operator as debtor, within ten (10) days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in 320 IAC 4-7-11 and 320 IAC 4-7-21 must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (320 IAC 4-7-28(h)).

(b) An owner or operator who fulfills the requirements of 320 IAC 4-7-6—320 IAC 4-7-14, 320 IAC 4-7-16—320 IAC 4-7-24, or 320 IAC 4-7-26 by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within sixty (60) days after such an event. *(Indiana Environmental Management Board; 320 IAC 4-7-27; filed Apr 4, 1983, 10:22 am)*

SECTION 37. 320 IAC 4-7-28 is added to read as follows:

320 IAC 4-7-28 Wording of the instruments; Cf. 40 CFR §264.151 (1982)

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4

Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 28. (a) A trust agreement for a trust fund, as specified in 320 IAC 4-7-7 or 320 IAC 4-7-17, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Trust Agreement

Trust Agreement, the "Agreement," entered into as of [date] by and between [name of the owner or operator], a [name of state], [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the state of ________" or "a national bank"], the "Trustee."

Whereas, the Indiana Environmental Management Board, "EMB," an agency of the State of Indiana, has established certain regulations applicable to the Grantor, requiring that an owner or operator of a hazardous waste management facility shall provide assurance that funds will be available when needed for closure and/or post-closure care of the facility,

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facilities identified herein,

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

Now, Therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Facilities and Cost Estimates. This Agreement pertains to the facilities and cost estimates identified on attached Schedule A [on Schedule A, for each facility list the EPA Identification Number, name, address, and the current closure and/or post-closure cost estimates, or portions thereof, for which financial assurance is demonstrated by the Agreement].

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of EMB. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other property subsequently transferrd [*sic*.] to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by EMB.

Section 4. Payment for Closure and Post-Closure Care. The Trustee shall make payments from the Fund as the EMB technical secretary shall direct, in writing, to provide for the payment of the costs of closure and/or post-closure care of the facilities covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the EMB technical secretary from the Fund for closure and post-closure expenditures in such amounts as the EMB technical secretary shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the EMB technical secretary specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the

Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(i) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government;

(ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in any other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depositary even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depositary with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation. The Trustee shall annually, at least thirty (30) days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the EMB technical secretary a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than sixty (60) days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within ninety (90) days after the statement has been furnished to the Grantor and the EMB technical secretary shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the EMB technical secretary, and the present Trustee by certified mail ten (10) days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the EMB technical secretary to the Trustee shall be in writing, signed by the EMB technical secretary, or his designee, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or EMB hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or EMB, except as provided for herein.

Section 15. Notice of Nonpayment. The Trustee shall notify the Grantor and the EMB technical secretary, by certified mail within ten (10) days following the expiration of the thirty-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the EMB technical secretary, or by the Trustee and the EMB technical secretary if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the EMB technical secretary, or by the Trustee and the EMB technical secretary, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses shall be delivered to the Grantor.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the EMB technical secretary issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the state of Indiana.

Section 20. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and attested as of the date first above written: The parties below certify that the wording of this Agreement is identical to the wording specified in 320 IAC 4-7-28 40 CFR 264.151(a)(1) as such regulations were constituted on the date first above written.

[Signature of Grantor]
[Title]

Attest:
[Title]
[Signature of Trustee]
Attest:
[Title]
[Seal]

(b) FIGURE 2 is an example of the certification of acknowledgement which must accompany the trust agreement for a trust fund as specified in 320 IAC 4-7-7 or 320 IAC 4-7-17.

Form of certification of acknowledgement.

State of ____________________
County of ____________________

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that she/he resides at (address), that she/he is [title] of [corporation], the corporation described in and which executed the above instrument, that she/he knows the seal of said corporation, that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

[Signature of Notary Public]

(c) Indiana form of acknowledgement:
FIGURE 3. Form of Indiana certificate of acknowledgement.

ACKNOWLEDGMENT

State of __________)
) SS.
County of __________)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared [owner or operator] to be known by me to be the person who [(only for corporate party), as [insert title] of __________ Inc., the corporation which] executed the foregoing instrument, signed the same and acknowledged to me that he/she did so sign the same (in the name and on behalf of the said corporation as such officer), and that the same is his free act and deed (and the free corporate act and deed of said corporation, and that he/she was duly authorized by the Board of Directors of said corporation).

IN WITNESS WHEREOF, I have set my hand and official seal this ___ day of ________, 19___.

I am a resident of ______
County, __________.

____
Notary Public

My Commission Expires:

____

(Indiana Environmental Management Board; 320 IAC 4-7-28; filed Apr 4, 1983, 10:22 am)

SECTION 38. 320 IAC 4-7-29 is added to read as follows:

320 IAC 4-7-29 Surety bonds
Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-6; IC 13-7-10-1

Sec. 29. A surety bond guaranteeing payment into a trust fund, as specified in 320 IAC 4-7-8 or 320 IAC 4-7-18, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Financial Guarantee Bond
Date bond executed: ________________
Effective date: ________________

Principal: [legal name and business address of owner or operator]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: ________________

Surety(ies): [name(s) and business address(es)]

EPA Identification Number, name, address, and closure and/or post-closure amount(s) for each facility guaranteed by this bond [indicate closure and post-closure amounts separately]: ________

Total penal sum of bond: $__________
Surety's bond number: __________

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the Environmental Management Board of the State of Indiana (hereinafter called EMB), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally, provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas said Principal is required, under the Indiana Environmental Management Act (IC 13-7), to have a permit in order to own or operate each hazardous waste management facility identified above, and

Whereas said Principal is required to provide financial assurance for closure, or closure and post-closure care, as a condition of the permit, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance.

Now, Therefore, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure of each facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

Or, if the Principal shall fund the standby trust fund in such amount(s) within fifteen (15) days after an order to begin closure is issued by the technical secretary or court of competent jurisdiction,

Or, if the Principal shall provide alternate financial assurance, as specified in 320 IAC 4-7-3—320 IAC 4-7-36, as applicable, and obtain the EMB technical secretary's written approval of such assurance, within ninety (90) days after the date notice of cancellation is received by both the Principal and the EMB technical secretary from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the EMB technical secretary that the Principal has failed to perform as guaranteed by this bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the standby trust fund as directed by the EMB technical secretary.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the EMB technical secretary, provided, however, that cancellation shall not occur during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by both the Principal and the EMB technical secretary, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the EMB technical secretary.

[(The following paragraph is an optional rider that may be included but is not required.)]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the EMB technical secretary.

In Witness Whereof, the Principal and Surety(ies) have executed this Financial Guarantee Bond on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in 320 IAC 4-7-29 as such regulations were constituted on the date this bond was executed.

Principal
[Signature(s)]
[Name(s)]
[Title(s)]
Corporate Surety(ies)
[Name and address]
State of incorporation: ____________
Liability limit: $ ____________
[Signature(s)]
[Name(s) and title(s)]
[For every co-surety, provide signature(s), and other information in the same manner as for Surety above.]
Bond premium: $ ____________

(Indiana Environmental Management Board; 320 IAC 4-7-29; filed Apr 4, 1983, 10:22 am)

SECTION 39. 320 IAC 4-7-30 is added to read as follows:

320 IAC 4-7-30 Letter of credit

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-6; IC 13-7-10-1

Sec. 30. A letter of credit, as specified in 320 IAC 4-7-9 or 320 IAC 4-7-19, must be worded as follows, except that instructions in brackets are to be replaced with relevant information and the brackets deleted:

Irrevocable Standby Letter of Credit
Technical Secretary
Environmental Management Board
State of Indiana

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No. _____ in your favor, at the request and for the account of [owner's or operator's name and address] up to the aggregate amount of [in words] U.S. dollars $______________, available upon presentation of

(1) your sight draft, bearing reference to this letter of credit No. ________, and
(2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Indiana Environmental Management Law (IC 13-7) as amended."

This letter of credit is effective as of [date] and shall expire on [date at least 1 year later], but such expiration date shall be automatically extended for a period of [at least 1 year] on [date] and on each successive expiration date, unless, at least one hundred twenty (120) days before the current expiration date, we notify both you and [owner's or operator's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for one hundred twenty (120) days after the date of receipt by both you and [owner's or operator's name], as shown on the signed return receipts.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [owner's or operator's name] in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in 320 IAC 4-7-30 as such regulations were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution] [Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce," or "the Uniform Commercial Code"].
(Indiana Environmental Management Board; 320 IAC 4-7-30; filed Apr 4, 1983, 10:22 am)

SECTION 40. 320 IAC 4-7-31 is added to read as follows:

320 IAC 4-7-31 Certificate of insurance
Authority: IC 13-7-3-1; IC 13-7-4-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 31. A certificate of insurance, as specified in 320 IAC 4-7-10 or 320 IAC 4-7-20, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Certificate of Insurance for Closure or Post-Closure Care

Name and Address of Insurer
(herein called the "Insurer"): ______________
Name and Address of Insured
(herein called the "Insured"): ______________

Facilities Covered: [List for each facility: The EPA Identification Number, name, address, and the amount of insurance for closure and/or the amount for post-closure care (these amounts for all facilities covered must total the face amount shown below).]

Face Amount: ______________
Policy Number: ______________
Effective Date: ______________

The Insurer hereby certifies that it has issued to the Insured the policy of insurance identified above to provide financial assurance for [insert "closure" or "closure and post-closure care" or "post-closure care"] for the facilities identified above. The Insurer further warrants that such policy conforms in all respects with the requirements of 320 IAC 4-7-10, and 320 IAC 4-7-20, as applicable and as such regulations were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

Whenever requested by the EMB technical secretary, the Insurer agrees to furnish to the EMB technical secretary a duplicate original of the policy listed above including all endorsements thereon.

I hereby certify that the wording of this certificate is identical to the wording specified in 320 IAC 4-7-31 as such regulation was constituted on the date show [*sic.*] immediately below.

[Authorized signature for Insurer]
[Name of person signing]
[Title of person signing]
Signature of witness or notary: ______________
[Date]

(Indiana Environmental Management Board; 320 IAC 4-7-31; filed Apr 4, 1983, 10:22 am)

SECTION 41. 320 IAC 4-7-32 is added to read as follows:

320 IAC 4-7-32 Chief financial officer letter
Authority: IC 13-7-3-1; IC 13-7-4-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 32. A letter from the chief financial officer, as specified in 320 IAC 4-7-11 or 320 IAC 4-7-21, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Letter From Chief Financial Officer

[Address to technical secretary of the Indiana Environmental Management Board.]

I am the chief financial officer of [name and address of firm]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in 320 IAC 4-7-3 through and including 320 IAC 4-7-36.

[Fill out the following four paragraphs regarding facilities and associated cost estimates. If your firm has no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its EPA Identification Number, name, address, and current closure and/or post-closure cost estimates. Identify each cost estimate as to whether it is for closure or post-closure care.]

1. This firm is the owner or operator of the following facilities for which financial assurance for closure or post-closure care is demonstrated through the financial test specified in Subpart H of 40 CFR Parts 264 and 265. The current closure and/or post-closure cost estimates covered by the test are shown for each facility: ________________

2. This firm guarantees, through the corporate guarantee specified in Subpart H of 40 CFR Parts 264 and 265, the closure or post-closure care of the following facilities owned or operated by subsidiaries of this firm. The current cost estimates for the closure or post-closure care so guaranteed are shown for each facility: ________________.

3. In states, where EPA is not administering the financial requirements of Subpart H of 40 CFR Parts 264 or 265, this firm, as owner or operator or guarantor, is demonstrating financial assurance for the closure or post-closure care of the following facilities through the use of a test equivalent or substantially equivalent to the financial test specified in Subpart H of 40 CFR Parts 264 and 265. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility: ________________.

4. This firm is the owner or operator of the following hazardous waste management facilities for which financial assurance for closure or, if a disposal facility, post-closure care, is not demonstrated either to EPA or a state through the financial test or any other financial assurance mechanism specified in Subpart H of 40 CFR Parts 264 and 265 or equivalent or substantially equivalent state mechanisms. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility: ________________.

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended [date].

[(Fill in Alternative I if the criteria of paragraph (f)(1)(i) of sections 264.143 or 264.145 or of paragraph (e)(1)(i) of sections 265.143 or 265.145 of this chapter, (or of 320 IAC 4-7-11(a)(1) or 320 IAC 4-7-21(a)(1) are used. Fill in Alternative II if the criteria of paragraph (f)(1)(ii) of sections 264.143 or 264.145, or of paragraph (e)(1)(ii) of sections 265.143 or 265.145 of this chapter (or of 320 IAC 4-7-11(a)(2) or 320 IAC 4-7-21(a)(2)) are used.)]

Alternative I

1. Sum of current closure and post-closure cost estimates [total of all cost estimates shown in the four paragraphs above] .... $..........
*2. Total liabilities [if any portion of the closure or post-closure cost estimates is included in total liabilities, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4] ....
*3. Tangible net worth ....
*4. Net worth ....
*5. Current assets ....
*6. Current liabilities ....
7. Net working capital [line 5 minus line 6] ....
*8. The sum of net income plus depreciation, depletion, and amortization ....
*9. Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.) ....

		YES	NO
10.	Is line 3 at least ten million dollars?		
11.	Is line 3 at least 6 times line 1?		
12.	Is line 7 at least 6 times line 1?		
*13.	Are at least 90% of firm's assets located in the U.S.? If not, complete line 14		
14.	Is line 9 at least 6 times line 1?		
15.	Is line 2 divided by line 4 less than 2.0?		
16.	Is line 8 divided by line 2 greater than 0.1?		
17.	Is line 5 divided by line 6 greater than 1.5?		

Alternative II

1. Sum of current closure and post-closure cost estimates [total of all cost estimates shown in the four paragraphs above] .... $..........

2. Current bond rating of most recent issuance of this firm and name of rating service .. ..

3. Date of issuance of bond ....

4. Date of maturity of bond ....

*5. Tangible net worth [if any portion of the closure and post-closure cost estimates is included in "total liabilities" on your firm's financial statements, you may add the amount of that portion to this line] .... $..........

*6. Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.) $..........

		YES	NO
7.	Is line 5 at least ten million dollars?		
8.	Is line 5 at least 6 times line 1?		
*9.	Are at least 90% of firm's assets located in the U.S.? If not, complete line 10.		
10.	Is line 6 at least 6 times line 1?		

I hereby certify that the wording of this letter is identical to the wording specified in 40 CFR 264.151(f) as such regulations were constituted on the date shown immediately below.

[Signature]
[Name]
[Title]
[Date]

(Indiana Environmental Management Board; 320 IAC 4-7-32; filed Apr 4, 1983, 10:22 am)

SECTION 42. 320 IAC 4-7-33 is added to read as follows:

320 IAC 4-7-33 Chief financial officer letter; liability coverage

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 33. A letter from the chief financial officer, as specified in 40 CFR §264.147(f) or 40 CFR §265.147(f), or in 320 IAC 4-7-26(f) must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

[Address to technical secretary of the Indiana Environmental Management Board, State of Indiana]

I am the chief financial officer of [owner's or operator's name and address]. This letter is in support of the use of the financial test to demonstrate financial responsibility for liability coverage [insert "and closure and/or post-closure care" if applicable] as specified in Subpart H of 40 CFR Parts 264 and 265, or 320 IAC 4-7-3 through and including 320 IAC 4-7-36.

[Fill out the following paragraph regarding facilities and liability coverage. For each facility, include its EPA Identification Number, name, and address.]

The owner or operator identified above is the ower or operator of the following facilities for which liability coverage is being demonstrated through the financial test specified in Subpart H of 40 CFR Parts 264 and 265 (or 320 IAC 4-7-3 through and including 320 IAC 4-7-36): ________.

[If you are using the financial test to demonstrate coverage of both liability and closure and post-closure care, fill in the following four paragraphs regarding facilities and associated closure and post-closure cost estimates. If there are no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its EPA Identification Number, name, address, and current closure and/or post-closure cost estimates. Identify each cost estimate as to whether it is for closure or post-closure care.]

1. The owner or operator identified above owns or operates the following facilities for which financial assurance for closure or post-closure care is demonstrated through the financial test specified in Subpart H of 40 CFR Parts 264 and 265. The current closure and/or post-closure cost estimates covered by the test are shown for each facility: ____________

2. The owner or operator identified above guarantees, through the corporate guarantee specified in Subpart H of 40 CFR Parts 264 and 265, the closure and post-closure care of the following facilities owned or operated by its subsidiaries. The current cost estimates for the closure or post-closure care so guaranteed are shown for each facility: ____________

3. In states where EPA is not administering the financial requirements of Subpart H of 40 CFR Parts 264 and 265, this owner or operator is demonstrating financial assurance for the closure or post-closure care of the following facilities through the use of a test equivalent or substantially equivalent to the financial test specified in Subpart H of 40 CFR Parts 264 and 265. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility: ____________.

4. The owner or operator identified above owns or operates the following hazardous waste management facilities for which financial assurance for closure or, if a disposal facility, post-closure care, is not demonstrated either to EPA or a state through the financial test or any other financial assurance mechanism specified in Subpart H of 40 CFR Parts 264 or 265 or equivalent or substantially equivalent state mechanisms. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility: ____________.

This owner or operator [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this owner or operator ends on [month, day]. The figures for the following items marked with an asterisk are derived from this owner's or operator's independently audited, year-end financial statements for the latest completed fiscal year, ended [date].

[Fill in Part A if you are using the financial test to demonstrate coverage only for the liability requirements.]

Part A. Liability Coverage for Accidental Occurrences

[Fill in Alternative I if the criteria of paragraph (f)(1)(i) of 40 CFR 264.147 or 265.147 (or 320 IAC 4-7-26) are used. Fill in Alternative II if the criteria of paragraph (f)(1)(ii) of 40 C.F.R. 264.147 or 265.147 (or 320 IAC 4-7-26) are used.]

ALTERNATIVE I

1. Amount of annual aggregate liability coverage to be demonstrated .... $________
*2. Current assets .... $________
*3. Current liabilities .... $________
4. Net working capital (line 2 minus line 3) .... $________
*5. Tangible net worth .... $________
*6. If less than 90% of assets are located in the U.S., give total U.S. assets .... $________

	YES	NO
7. Is line 5 at least ten million dollars?	___	___
8. Is line 4 at least 6 times line 1?	___	___
9. Is line 5 at least 6 times line 1?	___	___
*10. Are at least 90% of assets located in the U.S.? If not, complete line 11	___	___
11. Is line 6 at least 6 times line 1?	___	___

ALTERNATIVE II

1. Amount of annual aggregate liability coverage to be demonstrated .... $________
2. Current bond rating of most recent issuance and name of rating service .... ________
3. Date issuance of bond .... ________

4. Date maturity of bond .... ________

*5. Tangible net worth .... $________

*6. Total assets in U.S. (required only if less than 90% of assets are located in the U.S.) . $________

	YES	NO
7. Is line 5 at least ten million dollars?	___	___
8. Is line 5 at least 6 times line 1?	___	___
*9. Are at least 90% of assets located in the U.S.? If not, complete line 10	___	___
10. Is line 6 at least 6 times line 1?	___	___

[Fill in Part B if you are using the financial test to demonstrate assurance of both liability coverage and closure or post-closure care.]

Part B. Closure or Post-Closure Care and Liability Coverage

[Fill in Alternative I if the criteria of paragraphs (f)(1)(i) of 40 CFR 264.143 or 264.145 and (f)(1)(i) of 40 CFR 264.147 are used or if the criteria of paragraphs (e)(1)(i) of 40 CFR 265.143 or 265.145 (or 320 IAC 4-7-11(a)(1) or 320 IAC 4-7-21(a)(1)) and (f)(1)(i) of 40 CFR 265.147 (or 320 IAC 4-7-26) are used. Fill in Alternative II if the criteria of paragraphs (f)(1)(ii) of 40 CFR 264.143 or 264.145 and (f)(1)(ii) of 40 CFR 264.147 are used or if the criteria of paragraphs (e)(1)(ii) of 40 CFR 265.143 or 265.145 (or 320 IAC 4-7-11(a)(2) or 320 IAC 4-7-21(a)(2)) and (f)(1)(ii) of 40 CFR 265.147 (or 320 IAC 4-7-26) are used.]

ALTERNATIVE I

1. Sum of current closure and post-closure cost estimates (total of all cost estimates listed above) .... $________

2. Amount of annual aggregate liability coverage to be demonstrated .... $________

3. Sum of lines 1 and 2 .... $________

*4. Total liabilities (if any portion of your closure or post-closure cost estimates is included in your total liabilities, you may deduct that portion from this line and add that amount to lines 5 and 6) .... $________

*5. Tangible net worth .... $________

*6. Net worth .... $________

*7. Current assets .... $________

*8. Current liabilities .... $________

9. Net working capital (line 7 minus line 8) .... $________

*10. The sum of net income plus depreciation, depletion, and amortization .... $________

*11. Total assets in U.S. (required only if less than 90% of assets located in the U.S.) .... $________

	YES	NO
12. Is line 5 at least ten million dollars?	___	___
13. Is line 5 at least 6 times line 3?	___	___
14. Is line 9 at least 6 times line 3?	___	___
*15. Are at least 90% of assets located in the U.S.? If not, complete line 16	___	___
16. Is line 11 at least 6 times line 3?	___	___
17. Is line 4 divided by line 6 less than 2.0?	___	___
18. Is line 10 divided by line 4 greater than 0.1?	___	___
19. Is line 7 divided by line 8 greater than 1.5?	___	___

ALTERNATIVE II

1. Sum of current closure and post-closure cost estimates (total of all cost estimates listed above) .... $________

2. Amount of annual aggregate liability coverage to be demonstrated .... $________

3. Sum of lines 1 and 2 .... $________

4. Current bond rating of most recent issuance and name of rating service .... $________

5. Date of issuance of bond .... $________

6. Date of maturity of bond .... $______

*7. Tangible net worth (if any portion of the closure or post-closure cost estimates is included in "total liabilities" on your financial statements you may add that portion to this line) .... $______

*8. Total assets in the U.S. (required only if less than 90% of assets are located in the U.S.) $______

	YES	NO
9. Is line 7 at least ten million dollars?	___	___
10. Is line 7 at least 6 times line 3?	___	___
*11. Are at least 90% of assets located in the U.S.? If not, complete line 12	___	___
12. Is line 8 at least 6 times line 3?	___	___

I hereby certify that the wording of this letter is identical to the wording specified in 320 IAC 4-7-33 as such regulations were constituted on the date shown immediately below.

[Signature]
[Name]
[Title]
[Date]

(Indiana Environmental Management Board; 320 IAC 4-7-33; filed Apr 4, 1983, 10:22 am)

SECTION 43. 320 IAC 4-7-34 is added to read as follows:

320 IAC 4-7-34 Corporate guarantee for closure or post-closure care

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 34. A corporate guarantee, as specified in 320 IAC 4-7-11 or 320 IAC 4-7-21 (40 CFR 264.143(f) or 264.145(f), or 40 CFR 265.143(e) or 265.145(e)), must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Corporate Guarantee for Closure or Post-Closure Care

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the State of Indiana, herein referred to as guarantor, to the Environmental Management Board of the State of Indiana (EMB), obligee, on behalf of our subsidiary [owner or operator] of [business address].

Recitals

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in 320 IAC 4-7-11 and 320 IAC 4-7-21.

2. [Owner or operator] owns or operates the following hazardous waste management facility(ies) covered by this guarantee: [List for each facility: EPA Identification Number, name, and address. Indicate for each whether guarantee is for closure, post-closure care, or both.]

3. "Closure plans" and "post-closure plans" as used below refer to the plans maintained as required by 320 IAC 4-7-1 (Subpart G of 40 CFR Parts 264 and 265) for the closure and post-closure care of facilities as identified above.

4. For value received from [owner or operator], guarantor guarantees to EMB that in the event that [owner or operator] fails to perform [insert "closure," "post-closure care" or "closure and post-closure care"] of the above facility(ies) in accordance with the closure or post-closure plans and other permit requirements whenever required to do so, the guarantor shall do so or establish a trust fund as specified in 320 IAC 4-7-3 through and including 320 IAC 4-7-36, as applicable, in the name of [owner or operator] in the amount of the current closure or post-closure cost estimates as specified in 320 IAC 4-7-3 through and including 320 IAC 4-7-36.

5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within ninety (90) days, by certified mail, notice to the EMB technical secretary and to [owner or operator] that he intends to provide alternate financial assurance as specified in 320 IAC 4-7-3 through and including 320 IAC 4-7-36, as applicable, in the name of [owner or operator]. Within one hundred twenty (120) days after the end of such fiscal year, the guarantor shall establish such financial assurance unless [owner or operator] has done so.

6. The guarantor agrees to notify the EMB technical secretary by certified mail, of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within ten (10) days after commencement of the proceeding.

7. Guarantor agrees that within thirty (30) days after being notified by the EMB technical secretary of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure or post-closure care, he shall establish alternate financial assurance as specified in 320 IAC 4-7-3 through and including 320 IAC 4-7-36, as applicable, in the name of [owner or operator] unless [owner or operator] has done so.

8. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of the closure or post-closure plan, amendment or modification of the permit, the extension or reduction of the time of performance of closure or post-closure, or any other modification or alteration of an obligation of the owner or operator pursuant to 320 IAC 4-6 and 320 IAC 4-7.

9. Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] must comply with the applicable financial assurance requirements of 320 IAC 4-7-3 through and including 320 IAC 4-7-36 for the above-listed facilities, except that guarantor may cancel this guarantee by sending notice by certified mail to the EMB technical secretary and to [owner or operator], such cancellation to become effective no earlier than one hundred twenty (120) days after receipt of such notice by both the EMB and [owner or operator], as evidenced by the return receipts.

10. Guarantor agrees that if [owner or operator] fails to provide alternate financial assurance as specified in 320 IAC 4-7-3 through and including 320 IAC 4-7-36, as applicable, and obtain written approval of such assurance from the EMB technical secretary within ninety (90) days after a notice of cancellation by the guarantor is received by the EMB technical secretary from guarantor, guarantor shall provide such alternate financial assurance in the name of [owner or operator].

11. Guarantor expressly waives notice of acceptance of this guarantee by the EMB or by [owner or operator]. Guarantor also expressly waives notice of amendments or modifications of the closure and/or post-closure plan and of amendments or modifications of the facility permit(s).

I hereby certify that the wording of this guarantee is identical to the wording specified in 320 IAC 4-7-34 as such regulation was constituted on the date first above written.

Effective date: ____________________
[Name of guarantor]
[Authorized signature for guarantor]
[Name of person signing]
[Title of person signing]
Signature of witness or notary: ____________________

(Indiana Environmental Management Board; 320 IAC 4-7-34; filed Apr 4, 1983, 10:22 am)

SECTION 44. 320 IAC 4-7-35 is added to read as follows:

320 IAC 4-7-35 Hazardous waste facility liability endorsement form

Authority: IC 13-7-3-1; IC 13-7-4-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-4; IC 13-7-10-1

Sec. 35. A hazardous waste facility liability endorsement as required in 320 IAC 4-7-26 must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Hazardous Waste Facility Liability Endorsement

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering bodily injury and property damage in connection with the insured's obligation to demonstrate financial responsibility under 320 IAC 4-7-26. The coverage applies at [list EPA Identification Number, name, and address for each facility] for [insert "sudden accidental occurrences," "nonsudden accidental occurrences," or "sudden and nonsudden accidental occurrences"; if coverage is for multiple facilities and the coverage is different for different facilities, indicate which facilities are insured for sudden accidental occurrences, which are insured for nonsudden accidental occurrences, and which are insured for both]. The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's liability], exclusive of legal defense costs.

2. The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions of the policy inconsistent with subsections (a) through (e) of this Paragraph 2 are hereby amended to conform with subsections (a) through (e):

(a) Bankruptcy or insolvency of the insured shall not relieve the Insurer of its obligations under the policy to which this endorsement is attached.

(b) The Insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the Insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in 320 IAC 4-7-26(f).

(c) Whenever requested by the technical secretary of the Indiana Environmental Management Board (EMB), the Insurer agrees to furnish to the technical secretary a signed duplicate original of the policy and all endorsements.

(d) Cancellation of this endorsement, whether by the Insurer or the insured, will be effective only upon written notice and only after the expiration of sixty (60) days after a copy of such written notice is received by the technical secretary.

(e) Any other termination of this endorsement will be effective only upon written notice and only after the expiration of thirty (30) days after a copy of such written notice is received by the technical secretary.

Attached to and forming part of policy No. ______ issued by [name of Insurer], herein called the Insurer, of [address of Insurer] to [name of insured] of [address] this _____ day of ________, 19____. The effective date of said policy is _____ day of _______, 19 ____.

I hereby certify that the wording of this endorsement is identical to the wording specified in 320 IAC 4-7-35 as such regulation was constituted on the date first above written, and that the Insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states.

[Signature of Authorized Representative of Insurer]
[Type name]
[Title], Authorized Representative of [name of Insurer]
[Address of Representative]

(Indiana Environmental Management Board; 320 IAC 4-7-35; filed Apr 4, 1983, 10:22 am)

SECTION 45. 320 IAC 4-7-36 is added to read as follows:

320 IAC 4-7-36 Hazardous waste facility certificate of liability insurance

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 36. A certificate of liability insurance as required in 320 IAC 4-7-26 must be worded as follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Hazardous Waste Facility Certificate of Liability Insurance

1. [Name of Insurer], (the "Insurer"), of [address of Insurer] hereby certifies that it has issued liability insurance covering bodily injury and property damage to [name of insured], (the "insured"), of [address of insured] in connection with the insured's obligation to demonstrate financial responsibility under 320 IAC 4-7-26. The coverage applies at [list EPA Identification Number, name, and address for each facility] for [insert "sudden accidental occurrences," "nonsudden accidental occurrences," or "sudden and nonsudden accidental occurrences"; if coverage is for multiple facilities and the coverage is different for different facilities, indicate which facilities are insured for sudden accidental occurrences, which are insured for nonsudden accidental occurrences, and which are insured for both]. The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's liability], exclusive of legal defense costs. The coverage is provided under policy number ______, issued on [date]. The effective date of said policy is [date].

2. The Insurer further certifies the following with respect to the insurance described in Paragraph 1:

(a) Bankruptcy or insolvency of the insured shall not relieve the Insurer of its obligations under the policy.

(b) The Insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the Insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in 320 IAC 4-7-26(f).

(c) Whenever requested by the technical secretary of the Environmental Management Board of the state of Indiana (EMB), the Insurer agrees to furnish to the technical secretary a signed duplicate original of the policy and all endorsements.

(d) Cancellation of the insurance, whether by the Insurer or the insured, will be effective only upon written notice and only after the expiration of sixty (60) days after a copy of such written notice is received by the technical secretary of the EMB.

(e) Any other termination of the insurance will be effective only upon written notice and only after the expiration of thirty (30) days after a copy of such written notice is received by the technical secretary.

I hereby certify that the wording of this instrument is identical to the wording specified in 320 IAC 4-7-36 as such regulation was constituted on the date first above written, and that the Insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states.

[Signature of authorized representative of Insurer]
[Type name]
[Title], Authorized Representative of [name of Insurer]

[Address of Representative]
(Indiana Environmental Management Board; 320 IAC 4-7-36, filed Apr 4, 1983, 10:22 am)

Rule 8. Hazardous Waste Management; Hazardous Waste Facility Construction Permit

320 IAC 4-8-1 Permit required

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 1. (a) For the purposes of this Rule [*320 IAC 4-8*], "substantial alteration" or "alteration" means a change to a permitted facility which cannot be appropriately regulated by a modification of the facility operating permit because:

(1) the design or technology to be incorporated in the change differs radically from the original design;
(2) the change represents a fifty percent (50%) increase in facility capacity; or
(3) the change represents the facility's involvement in wastes significantly different from what it is presently handling.

(b) No person shall cause or allow the construction or installation of a new hazardous waste facility or the substantial alteration of an existing hazardous waste facility without first obtaining a hazardous waste facility construction permit from the Board. *(Indiana Environmental Management Board; 320 IAC 4-8-1; filed Oct 21, 1981, 3:35 pm)*

320 IAC 4-8-2 Application for hazardous waste facility construction permit

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 2. A complete application for a hazardous waste facility construction permit shall be submitted to the Board at least one hundred and twenty (120) days prior to the start of construction or alteration of the facility. The application form shall be EPA Form 3510-1 and -3 (6-80) and shall be accompanied by the following:

(a) Complete plans, data, specifications, engineering reports, design, and other such information as the Board deems necessary to make a determination of compliance with IC 13-7, applicable standards and requirements concerning hazardous waste and these rules [*320 IAC 4*].
(b) Contingency plans for effective containment and control of any emergency condition resulting from an unanticipated occurrence, and a description of the testing facilities to be used to verify the chemical and physical characteristics of the hazardous waste stored, received, or transferred.
(c) A closure plan and, for hazardous waste disposal facilities, a post-closure monitoring and maintenance plan, along with financial assurance for closure and post-closure monitoring and maintenance.
(d) Proof of the financial capability of the operator and owner of the facility and proof of the provision and maintenance of liability insurance.

Applications for alteration of existing facilities for which the information in subsections (b) through (d) has been previously supplied to and accepted by the Board shall include such information as necessary to update the prior information and to support the application for the proposed alterations. *(Indiana Environmental Management Board; 320 IAC 4-8-2; filed Oct 21, 1981, 3:35 pm)*

320 IAC 4-8-3 Issuance of permit

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 3. A hazardous waste facility construction permit shall be issued to an applicant upon presentation of evidence of compliance with the provisions of IC 13-7, any applicable standards or requirements concerning hazardous waste, and these rules [*320 IAC 4*]. The permit shall contain such terms and conditions as are deemed necessary by the Board to protect the environment and the public health. The Board may require such testing and construction management as it deems necessary to determine compliance. *(Indiana Environmental Management Board; 320 IAC 4-8-3; filed Oct 21, 1981, 3:35 pm)*

320 IAC 4-8-4 Denial of permit

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 4. In the event of a denial of a permit application, the Board shall send written notice by certified mail, return receipt requested, to the applicant and shall set forth in such notice the reasons for the action. *(Indiana Environmental Management Board; 320 IAC 4-8-4; filed Oct 21, 1981, 3:35 pm)*

320 IAC 4-8-5 Amendment, modification, revocation or suspension of a permit

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 5. The Board may amend, modify, revoke, or suspend any permit issued for cause including, but not limited to, the following:

(a) Violation of any condition or provision of said permit or failure to comply with any final order of the Board;
(b) Failure to comply with IC 13-7, or these rules [*320 IAC 4*];

(c) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts, or

(d) When the permitted facility poses a threat to the environment or the public health.

In the event of amendment, modification, revocation, or suspension of any permit, the Board shall serve written notice by certified mail, return receipt requested, of such action on the permit holder and shall set forth in such notice the reasons for such actions. *(Indiana Environmental Management Board; 320 IAC 4-8-5; filed Oct 21, 1981, 3:35 pm)*

320 IAC 4-8-6 Transfer of permit

Authority: IC 13-7-8-1; IC 13-7-4-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 6. No person shall cause or allow any change in the ownership or operational control of any facility without obtaining the approval of the Board. An application for transfer shall be submitted to the Board jointly by the existing owner and operator and the prospective owner and operator, and the application shall be signed by all parties. The existing permittee shall be subject to these rules [*320 IAC 4*] and conditions of the permit until the Board approves the transfer. For the purposes of this section, the Board may effect the transfer by nullifying the existing permit and issuing a new permit. *(Indiana Environmental Management Board; 320 IAC 4-8-6; filed Oct 21, 1981, 3:35 pm)*

320 IAC 4-8-7 Duration of and reissuance of permit

Authority: IC 13-7-8-1; IC 13-7-4-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 7. A permit issued by the Board pursuant to IC 13-7, and these rules [*320 IAC 4*], shall be effective for a fixed term not to exceed five (5) years. Application for reissuance of the permit shall be submitted to the Board no later than one hundred and twenty (120) days prior to the expiration date specified in the permit.

(b) A construction permit needs to be reissued only if construction of the facility is not completed in five (5) years. *(Indiana Environmental Management Board; 320 IAC 4-8-7; filed Oct 21, 1981, 3:35 pm)*

SECTION 46. 320 IAC 4-9-1 is amended to read as follows:

320 IAC 4-9-1 Permit required

Authority: IC 13-7-8-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-5; IC 13-7-10-1

Sec. 1. (a) No person shall cause or allow the operation of a hazardous waste facility without first obtaining a hazardous waste facility operating permit from the board. Provided, however, that any person who ~~owned or operated~~ owns or operates any existing hazardous waste facility ~~on the effective date of these rules~~, (as defined in 40 CFR 260.10) or any person who ~~owned or operated~~ owns or operates a facility that ~~treated, stored, disposed or recovered~~ treats, stores, disposes of or recovers a solid waste which has been subsequently determined to be hazardous by any receive, treat, store, recover or dispose of such hazardous waste if the owner or ~~operator~~ operators applies for a hazardous waste facility operating permit in accordance with ~~Section 2 of this Rule~~ 320 IAC 4-9-2.

(b) The following persons are among those who are not required to obtain a permit under this article:

(1) Generators who accumulate hazardous waste on-stie for less than 90 days, as provided in 320 IAC 4-4-1 (40 CFR 262.41).

(2) Farmers who dispose of hazardous waste pesticides from their own use as provided in 320 IAC 4-4-1 (40 CFR 262.51).

(3) Persons who own or operate facilities solely for the treatment, storage, or disposal of hazardous waste excluded from regulations under this Part by 320 IAC 4-3-1 (40 CFR 261.4 or 261.5) (small generator exemption).

(4) Owners or operators of totally enclosed treatment facilities as defined in 320 IAC 4-1-5 (40 CFR 260.10).

(5) Owners and operators of elementary neutralization units or wastewater treatment units as defined in 320 IAC 4-1-5 (40 CFR 260.10).

(6) Transporters storing manifested shipments of hazardous waste in containers meeting the requirements of 320 IAC 4-4-1 (40 CFR 262.30) at a transfer facility for a period of ten days or less.

(7) Persons adding absorbent material to waste in a container (as defined in 320 IAC 4-1-5 (40 CFR 260.10) and persons adding waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and in compliance with 320 IAC 4-6-1 (40 CFR 265.17, 265.171 and 265.172).

(8) A person carrying out activities to immediately contain or treat a spill of hazardous waste or material which, when spilled, becomes a hazardous waste in accordance with 320 IAC 4-6-1 (40 CFR 265. 1(c)(11).

(Indiana Environmental Management Board; 320 IAC 4-9-1; filed Oct 21, 1981, 3:35 pm; 6 IR 2802; filed Apr 4, 1983, 10:22 am)

SECTION 47. 320 IAC 4-9-2 is amended to read as follows:

320 IAC 4-9-2 Application for permit

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-3; IC 13-7-8.5-5; IC 13-7-10-1

Sec. 2. (a) A person who owns or operates ~~a~~ **an existing** hazardous waste facility ~~in existence on the effective date of this Rule~~ must submit to the board a completed EPA Form 3510-1 and -3 (6-80) within one hundred and twenty (120) days from ~~the effective date of this rule~~ **(November 21, 1981)**.

(b) A person who owns or operates a facility for the treatment, storage, recover [*sic.*], or disposal of a solid waste which has been subsequently determined to be a hazardous waste as a result of a revision of ~~Rule 3~~ **320 IAC 4-3** or emergency rule under IC 13-7-8.5-3(b), or owns or operates a facility which was exempt from regulation under ~~Rule 3~~ **320 IAC 4-3** or under IC 13-7-8.5-5(e) and has subsequently lost that exempt status, must submit to the board a completed EPA Form 3510-1 and -3 (6-80) within ninety (90) days from the effective date of the specific revision of ~~Rule 3~~ **320 IAC 4-3**, or from the effective date of the facility's loss of exempt status.

(c) An application filed under subsections (a) or (b) **of this section** shall also include:

(1) contingency plan for the effective containment and control of any emergency condition resulting from an unanticipated occurrence;
(2) description of the testing facilities to be used to verify the physical and chemical characteristics of the hazardous waste stored, received, or transferred;
(3) proof of the financial capability of the owner and operator of the facility;
(4) submission of a plan for and financial assurance of closure and post-closure monitoring and maintenance of the facility;
(5) proof of liability insurance as required by ~~Rule 7~~ **320 IAC 4-7**; and

(6) a prepared instrument to establish the restrictive covenant as required by IC 13-7-8.5-5 which is required for all hazardous waste disposal facilities.

(d) An application for a new hazardous waste facility shall include:

(1) certification that construction of the facility has been completed in accordance with the construction permit issued for that facility under ~~Rule 8~~ 320 IAC 4-8; and
(2) if the facility is a disposal facility, a prepared instrument to establish the restrictive covenant required under IC 13-7-8.5-5.

(e) An applicant who has already submitted EPA Forms 3510-1 and -3 (6-80) for the same facility to EPA may use legible photocopies of the completed forms, ~~except for the~~ along with either: a new and original signature page, or a photocopy of the original signature page submitted to EPA along with a letter from the person signing the original, or his or her successor, stating that the photocopy is a true and accurate copy of the original to fulfill the requirements ~~of this section~~ of subsections (a) and (b) above. *(Indiana Environmental Management Board; 320 IAC 4-9-2; filed Oct 21, 1981, 3:35 pm: 4 IR 2803; filed Apr 4, 1983, 10:22 am)*

320 IAC 4-9-3 Issuance of permit

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 3. Hazardous waste facility operating permits shall be issued to an applicant upon presentation of evidence of compliance with IC 13-7, any applicable standards or requirements concerning hazardous waste, and these rules [*320 IAC 4*], and for new facilities, completion of construction as required in the permit issued under 320 IAC 4-8. No permit for a hazardous waste landfill shall be issued until the restrictive covenant required by IC 13-7-8.5-5(d) is executed. The permit shall contain such terms and conditions as are deemed necessary by the Board to protect the environment and the public health. *(Indiana Environmental Management Board; 320 IAC 4-9-3; filed Oct 21, 1981, 3:35 pm)*

320 IAC 4-9-4 Denial of permit

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 4. In the event of denial of permit application, the Board shall send written notice by certified mail, return receipt requested, to the applicant and shall set forth in such notice the reasons for the action. *(Indiana Environmental Management Board; 320 IAC 4-9-4; filed Oct 21, 1981, 3:35 pm)*

320 IAC 4-9-5 Amendment, modification, revocation or suspension of a permit

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 5. The Board may amend, modify, revoke, or suspend any permit issued for cause including, but not limited to, the following:

(a) Violation of any condition or provision of said permit or failure to comply with any final order of the Board;

(b) Failure to comply with IC 13-7, or these rules [*320 IAC 4*];

(c) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts, or

(d) When the permitted facility poses a threat to the public health and the environment.

In the event of amendment, modification, revocation, or suspension of any permit, the Board shall serve written notice by certified mail, return receipt requested, on the permit holder and shall set forth in such notice the reasons for such actions. *(Indiana Environmental Management Board; 320 IAC 4-9-5; filed Oct 21, 1981, 3:35 pm)*

320 IAC 4-9-6 Transfer of permit

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 6. No person shall cause or allow any change in the ownership or operational control of any facility without obtaining the approval of the Board. An application for transfer shall be submitted to the Board jointly by the existing owner and operator and the prospective owner and operator, and the application shall be signed by all parties. The existing permittee shall be subject to these rules [*320 IAC 4*] and conditions of the permit until the Board approves the transfer. For the purposes of this section, the Board may effect the transfer by nullifying the existing permit and issuing a new permit. *(Indiana Environmental Management Board; 320 IAC 4-9-6; filed Oct 21, 1981, 3:35 pm)*

320 IAC 4-9-7 Duration of and reissuance of permit

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 7. Permits issued by the Board pursuant to IC 13-7, and these rules [*320 IAC 4*], shall be effective for a fixed term not to exceed five (5) years. Application for reissuance of the permit shall be submitted to the Board no later than one hundred and twenty (120) days prior to the expiration date specified in the permit. Provided, however, that the Board may reissue both the construction and operating permits simultaneously. *(Indiana Environmental Management Board; 320 IAC 4-9-7; filed Oct 21, 1981, 3:35 pm)*

SECTION 48. 320 IAC 4-9.1-1 is added to read as follows:

Rule 9.1. Hazardous Waste Facility Permits by Rule

320 IAC 4-9.1-1 Hazardous waste facility permits by rule

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5-4
Affected: IC 13-7-8.5-6; IC 13-7-10-1

Sec. 1. (a) Notwithstanding any other provision of 320 IAC 4, ocean disposal barges or vessels, injection wells, and publicly owned treatment works shall be deemed to have a permit under 320 IAC 4-8 and 320 IAC 4-9 if the conditions listed in this section are met:

(b) OCEAN DISPOSAL BARGES OR VESSELS. The owner or operator of a barge or other vessel which accepts hazardous waste for ocean disposal, if the owner or operator:

(1) has a permit for ocean dumping issued by EPA under 40 CFR Part 220 (Ocean Dumping, authorized by the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. 1420, et seq.);

(2) complies with the conditions of that permit; and

(3) complies with the following hazardous waste regulations adopted by reference in 320 IAC 4-6:

(A) 40 CFR 265.11, Identification number;
(B) 40 CFR 265.71, Use of manifest system;
(C) 40 CFR 265.72, Manifest discrepancies;
(D) 40 CFR 265.73(a) and (b)(1), Operating record;
(E) 40 CFR 265.75, Annual report (excluding, however, 40 CFR 265.75(f) and 40 CFR 265.75(g)); and
(F) 40 CFR 265.76, Unmanifested waste report.

(c) INJECTION WELLS. The owner or operator of an injection well disposing of hazardous waste, if the owner or operator:

(1) has a permit for underground injection issued by EPA under the Safe Drinking Water Act and 40 CFR Part 122, Subpart C; and

(2) complies with the conditions of that permit and the requirements of 40 CFR 122.45 (requirements for wells managing hazardous waste).

(d) PUBLICLY OWNED TREATMENT WORKS (POTW). The owner or operator of a POTW which accepts for treatment hazardous waste, if the owner or operator:

(1) has an NPDES permit;

(2) complies with the conditions of that permit; and

(3) complies with the following hazardous waste regulations adopted by reference in 320 IAC 4-6:

(A) 40 CFR 265.11, Identification number;
(B) 40 CFR 265.71, Use of manifest system;
(C) 40 CFR 265.72, Manifest discrepancies;
(D) 40 CFR 265.73(a) and (b)(1), Operating record;
(E) 40 CFR 265.75, Annual report; and
(F) 40 CFR 265.76, Unmanifested waste report; and

(4) if the waste meets all federal, state, and local pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance.

(Indiana Environmental Management Board; 320 IAC 4-9.1-1; filed Apr 4, 1983, 10:22 am)

Rule 10. Hazardous Waste Management: Inspection and Investigation

320 IAC 4-10-1 Right of entry

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 1. The Board or its authorized representative, upon presentation of credentials, or by directive of the Board, shall have a right to enter upon, to or through premises, public or private, subject to these rules [*320 IAC 4*], or premises whereon violation of IC 13-7, or these rules [*320 IAC 4*], is reasonably believed to be occurring or is reasonably believed to be about to occur, to investigate, take samples, copy all records related to hazardous waste, and inspect for compliance with the requirements imposed under IC 13-7, or these rules [*320 IAC 4*], or to determine whether such a violation or threatened violation exists, in accordance with the following purposes:

(a) For the purpose of determining whether any person is subject to the requirements of IC 13-7, or whether any person subject to the requirements of IC 13-7 is in compliance with these rules [*320 IAC 4*];

(b) For the purpose of investigating conditions relating to hazardous waste management or hazardous waste management practices where the Technical Secretary is in possession of information sufficient to form a reasonable belief that a violation of IC 13-7, or these rules [*320 IAC 4*], is occurring or is about to occur; or

(c) For the purpose of determining whether there has been a violation of any of the provisions of IC 13-7, or these rules [*320 IAC 4*], or any permit or order issued pursuant to IC 13-7, and these rules [*320 IAC 4*].

(Indiana Environmental Management Board; 320 IAC 4-10-1; filed Oct 21, 1981, 3:35 pm)

320 IAC 4-10-2 Conduct of inspection and sampling

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 2. Each such investigation or inspection shall be completed with reasonable promptness. If the Board or its authorized representative obtains any sample prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt identifying the sample obtained and, if requested, a portion of the sample equal in volume or weight to the portion retained. If any anaylsis is made of such sample, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge. *(Indiana Environmental Management Board; 320 IAC 4-10-2; filed Oct 21, 1981, 3:35 pm)*

Rule 11. Hazardous Waste Management: Enforcement, Penalties, and Confidentiality

320 IAC 4-11-1 Enforcement

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 4-22-1; IC 13-7-8.5

Sec. 1. The administration and enforcement [illegible] these rules [*320 IAC 4*] shall be in accordance with IC 13-7 and the Indiana Administrative Adjudication Act, IC 4-22-1. *(Indiana Environmental Management Board; 320 IAC 4-11-1; filed Oct 21, 1981, 3:35 pm)*

320 IAC 4-11-2 Penalties

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 2. Penalties for violations of these rules [*320 IAC 4*] are as outlined in IC 13-7. *(Indiana Environmental Management Board; 320 IAC 4-11-2; filed Oct 21, 1981, 3:35 pm)*

320 IAC 4-11-3 Confidentiality

Authority: IC 13-7-3-1; IC 13-7-5-1; IC 13-7-8.5
Affected: IC 13-7-8.5

Sec. 3. (a) All records, reports, monitoring or sampling data, or other information submitted to the Board pursuant to these rules [*320 IAC 4*], shall be open to reasonable public inspection, except for information which constitutes a trade secret such as information concerning secret manufacturing or treatment processes, or other data which is claimed as confidential and so accepted by the Board in accordance with subsection (b) of this section. Such records, reports, data, or information may be copied upon payment of the actual cost of reproducing the original.

(b) Any permit holder, an applicant for a permit, or other person required under these rules [*320 IAC 4*] to submit any information which, in his opinion, warrants confidential status may so certify and request that such information be available only for the use of the Board at the time such information is submitted to the Board. The Board shall give consideration to the request, and if the Board finds that such information is entitled to confidential treatment as a trade secret, the request shall be granted: Provided, that it shall initially be the duty of the person submitting the information to request that any or all of the data be declared confidential, and that no information will be considered confidential in the absence of such a request.

(c) If such confidential status is granted, the Board shall cause written notice to be given to the person submitting the information by certified mail, return receipt requested. The Board shall provide that all such data granted confidentiality shall be properly secured. The data granted confidentiality may be disclosed or transmitted to other officers, employees, or authorized representatives of this State or of the United States concerned with the carrying out or implementing these rules [*320 IAC 4*] or when relevant in any proceedings related to enforcement.

(d) If the Board determines that the applicant has not substantiated his claim, the Board shall so notify the applicant by certified mail, return receipt requested. If the Board does not receive adequate substantiation within thirty (30) days after the applicant receives notice, the Board may place the submitted information in the files open to public inspection. *(Indiana Environmental Management Board; 320 IAC 4-11-3; filed Oct 21, 1981, 3:35 pm)*

SECTION 49. 320 IAC 4-3-4 and 320 IAC 4-7-2 are repealed.

ENVIRONMENTAL MANAGEMENT BOARD
1330 West Michigan Street
Indianapolis, IN 46206

ENVIRONMENTAL MANAGEMENT BOARD
OF THE STATE OF INDIANA

RULE 320 IAC 5-10

INDUSTRIAL WASTE HAULERS
PERMIT REGULATIONS

(Formerly Regulation SPC 17)
(Formerly 330 IAC 4-10)

Rule 10. Industrial Waste Haulers; Permit Regulations

Cited in: 320 IAC 5-10-6 — 320 IAC 5-10-9

320 IAC 5-10-1	Purpose of rule
320 IAC 5-10-2	Definitions
320 IAC 5-10-3	Permit and vehicle licensing requirements
320 IAC 5-10-4	Exclusions
320 IAC 5-10-5	Recording and reporting
320 IAC 5-10-6	Duration of permits and vehicle numbers
320 IAC 5-10-7	Nontransferability of permits and numbers
320 IAC 5-10-8	Enforcement
320 IAC 5-10-9	Penalties
320 IAC 5-10-10	Fees

320 IAC 5-10-1 Purpose of rule

Authority: IC 13-7-6-1; IC 13-7-7-5; IC 36-9-30-33
Affected: IC 13-7-5-1; IC 13-7-7-5

Sec. 1. GENERAL. It has been found that it is very common for industry to hire a private industrial waste hauler to dispose of untreated wastes which the company cannot economically treat or to transport treated wastes to ultimate disposal sites. These industries frequently have no knowledge of where eventual disposal takes place.

This regulation, pursuant to the authority in IC 1971, 13-7, as amended, prescribes the procedures to be followed in connection with the issuance of permits to persons engaged in removing liquid industrial wastes from the premises of other persons, provides for the inspection and numbering of vehicles and provides controls for the disposal of liquid industrial wastes. *(Indiana Environmental Management Board; SPC 17,General; filed Dec 9, 1974, 10:00 am: Rules and Regs. 1975, p. 588) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-10-2 Definitions

Authority: IC 13-7-6-1; IC 13-7-7-5; IC 36-9-30-33
Affected: IC 13-1-3-16; IC 13-7-1-2

Sec. 2. DEFINITIONS.

(a) In addition to the definitions contained in IC 1971, 13-7-1, as amended, the following definitions shall apply herein:

(1) "Agency" shall mean the Stream Pollution Control Board as defined in IC 1971, 13-1-3, as amended.

(2) "Director" shall mean the Technical Secretary of the Stream Pollution Control Board.

(3) "Industrial waste hauler" shall mean any person that transports liquid industrial wastes for treatment or disposal at a site other than where collected.

(4) "Liquid industrial waste" shall mean any liquid waste which is residual to wastewater treatment, or incident to an industrial or commercial activity, including but not limited to waste oil, salt brine, or other liquids used for road oiling and dust control.

(5) "Solid industrial waste" shall mean any industrial wastes that are not classified as liquid industrial waste including but not limited to metal shavings, rubbish, garbage, rubble, and other scrap.

(6) "Tank" shall mean any container placed on a vehicle to carry or transport liquid industrial wastes.

(7) "Vehicle" shall mean that device used to transport a tank or other container for hauling liquid industrial wastes. *(Indiana Environmental Management Board; SPC 17, Sec I; filed Dec 9, 1974, 10:00 am: Rules and Regs. 1975, p. 588) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-10-3 Permit and vehicle licensing requirements

Authority: IC 13-7-6-1; IC 13-7-7-5; IC 36-9-30-33
Affected: IC 13-7-4-1; IC 13-7-10-2; IC 13-7-10-3

Sec. 3. PERMIT AND VEHICLE LICENSING REQUIREMENTS.

(a) After December 31, 1975, no person shall haul or otherwise convey liquid industrial waste within the boundaries of Indiana without a valid industrial waste hauler permit issued by the Agency or its designated agent.

(b) After December 31, 1975, no person or industry in Indiana, shall allow the hauling of liquid industrial waste from a site owned or operated by that person or industry unless the industrial waste hauler has a valid industrial waste hauler permit issued by the Agency or its designated agent.

(c) After December 31, 1975, no person in Indiana shall accept liquid industrial waste for disposal or treatment from an industrial waste hauler unless that person has a valid SPC-15 *[320 IAC 3-1 — 320 IAC 3-8]* operation permit, a valid SPC-18 *[320 IAC 5-1 — 320 IAC 5-9]* operating permit or a valid NPDES discharge permit or has been granted approval by the Agency or its designated agent. Waste oil may be spread upon roadways and earth surfaces for dust control if authorized in writing by the owner of such property and if done in a manner that precludes hazardous or nuisance conditions. No waste shall be placed in a location where it could enter any public or private drain, pond, stream or other body of surface or ground water.

(d) All persons hauling liquid industrial waste on or before December 31, 1974, must make an application for an industrial waste hauler permit no later than April 1, 1975.

(e) All persons proposing to haul liquid industrial wastes after the effective date of this regulation, must make an application for a permit 90 days in advance of the proposed start of operation unless a shorter time is approved by the Agency.

(f) Applications for the industrial waste hauler permit shall be made on forms provided by the Agency. Applications for obtaining numbers for new vehicles and/or replacement of existing vehicles must be submitted to the Agency 30 days before the intended use of the vehicle unless a shorter time is approved by the Agency.

(g) Upon submission of the application, the Agency shall assure that the application is complete and shall undertake such investigations as it deems necessary to verify that the equipment and procedures are proper for adequate service.

(h) All trucks or removable tanks as in the case of semi-trailers or other vehicles used to transport or carry liquid industrial wastes shall each be issued a number by the Agency, and said number shall be painted on both sides of the vehicle or tank following the words, "licensed industrial waste hauling vehicle: (number)". Numbers and letters shall not be less than two inches high. Directly adjacent to said words and vehicle number shall be applied a seal furnished by the Agency which shall designate the year for which the permit was issued. *(Indiana Environmental Management Board; SPC 17, Sec II; filed Dec 9, 1974, 10:00 am: Rules and Regs. 1975, p. 589) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-10-4 Exclusions

Authority: IC 13-7-6-1; IC 13-7-7-5; IC 36-9-30-33
Affected: IC 13-7-4-1; IC 13-7-10-2; IC 13-7-10-3

Sec. 4. EXCLUSIONS.

(a) Any approved and licensed septic tank cleaner as defined under IC 1971, 25-35-1, as amended, who hauls only sanitary waste.

(b) Any person who hauls liquid industrial waste within a site owned and/or operated by that person provided that the disposal facility and/or site has been approved by the Agency or its designated agent.

(c) Any person who hauls solid industrial waste. *(Indiana Environmental Management Board; SPC 17, Sec III; filed Dec 9, 1974, 10:00 am: Rules and Regs. 1975, p. 590) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-10-5 Recording and reporting

Authority: IC 13-7-6-1; IC 13-7-7-5; IC 36-9-30-33
Affected: IC 13-7-5-1

Sec. 5. RECORDING AND REPORTING.

(a) Every person who hauls liquid industrial waste under the provisions of this regulation shall keep records of all trips where removal, transportation, treatment and/or disposal of liquid industrial wastes are involved. These records shall be made by the permittee on forms provided by the Agency and shall include the date, source of waste, quantity, type and the point and method of disposal. These reports shall be submitted to the Agency once per month and shall be submitted prior to the 15th day of the following month.

(b) Every person or industry which has liquid industrial wastes hauled by an industrial waste hauler shall keep records of all liquid industrial waste removed from that person or industry. These records shall be made by the person or industry on forms provided by the

Agency and shall include the date, the name of waste hauler, and the quantity and type of waste removed. These reports shall be submitted to the Agency once per quarter and shall be submitted prior to the 15th day following each quarter. This part (b) shall not apply to those persons or industries that require the disposal of less than 300 gallons of oil per month.

(c) The permittee shall be required to retain for a minimum of three years any records of hauling activities. This period of retention shall be extended when requested by the Director. *(Indiana Environmental Management Board; SPC 17, Sec IV: filed Dec 9, 1974, 10:00 am: Rules and Regs. 1975, p. 590) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-10-6 Duration of permits and vehicle numbers

Authority: IC 13-7-6-1; IC 13-7-7-5; IC 36-9-30-33
Affected: IC 13-7-10-2; IC 13-7-10-3

Sec. 6. DURATION OF PERMITS AND VEHICLE NUMBERS.

(a) All permits issued under the provisions of this regulation *[320 IAC 5-10]* shall be issued for a period not to exceed one year.

(b) Applications for renewal of a permit shall be made 60 days prior to the expiration date of the permit. *(Indiana Environmental Management Board; SPC 17, Sec V; filed Dec 9, 1974, 10:00 am: Rules and Regs. 1975, p. 591) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-10-7 Nontransferability of permits and numbers

Authority: IC 13-7-6-1; IC 13-7-7-5; IC 36-9-30-33
Affected: IC 13-7-10-2; IC 13-7-10-3

Sec. 7. NON-TRANSFERABILITY. No permit and/or vehicle numbers granted under this regulation *[320 IAC 5-10]* shall be valid in case of transfer of ownership or transfer of a vehicle number from one vehicle to another unless the Director approves the transfer. *(Indiana Environmental Management Board; SPC 17, Sec VI; filed Dec 9, 1974, 10:00 am: Rules and Regs. 1975, p. 591) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-10-8 Enforcement

Authority: IC 13-7-6-1; IC 13-7-7-5; IC 36-9-30-33
Affected: IC 13-7-11

Sec. 8. ENFORCEMENT. Enforcement provisions for this regulation *[320 IAC 5-10]* shall be governed by IC 1971, 13-7-11, as amended. *(Indiana Environmental Management Board; SPC 17, Sec VII; filed Dec 9, 1974, 10:00 am: Rules and Regs. 1975, p. 591) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-10-9 Penalties

Authority: IC 13-7-6-1; IC 13-7-7-5; IC 36-9-30-33
Affected: IC 13-7-13-1; IC 13-7-13-3

Sec. 9. PENALTIES. Penalties for violation of this regulation *[320 IAC 5-10]* are as outlined in IC 1971, 13-7-13, as amended. *(Indiana Environmental Management Board; SPC 17,Sec VIII; filed Dec 9, 1974, 10:00 am: Rules and Regs. 1975, p. 591) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-10-10 Fees

Authority: IC 13-7-6-1; IC 13-7-7-5; IC 36-9-30-33
Affected: IC 13-7-16-6

Sec. 10. FEES.

(a) A fee of $100 will be charged for each permit application including one vehicle application and $10 for each additional vehicle application.

(b) The fee structure set forth above will be reviewed from time to time as experience with the program is developed and such fees shall be used to help defray the cost of administering the program. Checks should be made payable to the Stream Pollution Control Board. *(Indiana environmental management board; SPC 17, Sec IX; filed Dec 9, 1974, 10:00 am: Rules and Regs. 1975, p. 591) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

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The Indiana Solid Waste Disposal Law

(IC 36-9-30)

(Supersedes IC 19-2-1, Refuse Disposal Act)

The 1981 Indiana General Assembly enacted PL 309 this spring which is an omnibus act recodifying, revising and re-arranging local government laws. Among its numerous provisions is revision and transfer of the Refuse Disposal Act to the new local government title of the Indiana Code, Title 36. Old IC 19-2-1 has been repealed, except for IC 19-2-1-33 which is the prohibition of a landfill within a half-mile of a residential area (which applies only to Lake County)

Instead of referring to the "Refuse Disposal Act, IC 19-2-1" you must now refer to the "Solid Waste Disposal Law, IC 36-9-30".

The more obvious changes in the law include:

- -- the definitions of refuse, rubbish and garbage have been removed and replaced by the term "solid waste."
- -- the terms "city, county, or town" have been replaced by "unit."

If you have documents or form letters which refer to IC 19-2-1 or to specific sections in that law (except for IC 19-2-1-33), you need to find the equivalent provision in IC 36-9-30 and change the citations in your documents.

9/1/81

THE INDIANA SOLID WASTE DISPOSAL LAW

IC 36-9-30

Chapter 30. Solid Waste Disposal.

36-9-30-1 Sec. 1. This chapter applies to all units except townships.

36-9-30-2 Sec. 2. As used in this chapter:

"Solid waste" means all putrescible and nonputrescible solid and semisolid wastes, except human excreta, but including garbage, rubbish, ashes, street cleanings, dead animals, offal, and solid commercial, industrial, and institutional wastes.

"Solid waste disposal facility" means a sanitary landfill, an incinerator, a composting facility, a garbage grinding facility, or any other facility that is suitable for solid waste disposal and is constructed and approved under this chapter.

36-9-30-3 Sec. 3. A unit may establish, acquire, construct, install, operate, and maintain facilities for the collection and disposal of solid waste in order to secure the collection and disposal of solid waste accumulated inside or outside the corporate boundaries of the unit. The unit may issue revenue bonds to pay all or part of the costs of the facilities.

36-9-30-4 Sec. 4. A unit acting under this chapter must obtain approval from the Indiana environmental management board for any method or methods used for the disposal of solid waste before obtaining land or facilities. One (1) or more of the methods listed below may be used:

(1) A unit may use a sanitary landfill. If a sanitary landfill is to be used, information necessary to evaluate the project shall be submitted to the Indiana environmental management board for review and approval before the purchase of land or equipment.

(2) A unit may use incineration. If incineration is to be used, the plans and specifications of each incinerating plant or other facility, along with other information necessary to evaluate the project, shall be submitted to the Indiana environmental management board and the Indiana air pollution control board for review and approval before construction of the facilities. The plans must include an approved method for the disposal of noncombustible solid waste and incinerator residue.

(3) A unit may use composting. If composting is to be used, the plans and specifications of composting facilities, along with other information necessary to evaluate the project, shall be submitted to the Indiana environmental management board for review and approval before construction of the facilities. The plans must provide for the proper disposal of all solid waste that is not suitable for composting.

(4) A unit may use a garbage grinding system involving the separate collection and disposal of garbage into a community sewerage system through commercial-type grinders or community-wide installation of individual grinders. As used in this subdivision, "garbage" means all decayable solid and semisolid wastes resulting from the

processing, preparation, cooking, serving, or consumption of food or food materials. The plans and specifications for the garbage grinding facilities, along with other information necessary to evaluate the project, shall be submitted to the Indiana environmental management board and the Indiana stream pollution control board for review and approval, before construction or installation of the facilities. The plans must provide for the proper disposal of all solid waste that is not suitable for grinding.

(5) A unit may use any other suitable methods or facilities for the disposal of solid waste, if the plans and specifications, along with other information necessary to evaluate the project, are submitted to the Indiana environmental management board for review and approval before the acquisition, construction, installation, or operation of the method or facility.

36-9-30-5 Sec. 5. (a) A unit may contract with persons for the collection or disposal of solid waste. The contract may provide that persons contracted with have the exclusive right to collect or dispose of solid waste under section 4 of this chapter.

(b) A unit may contract with any business or institution for the collection and disposal of industrial, commercial, or institutional solid waste. All fees collected by the unit shall be deposited in the treasury of the unit for the administration, operation, and maintenance of the solid waste collection and disposal project.

(c) A unit may contract for the use of privately owned solid waste disposal facilities.

36-9-30-6 Sec. 6. The fiscal body of a unit acting under this chapter may make appropriations for the acquisition, establishment, operation, and maintenance of premises, facilities, and services for the collection and disposal of solid waste. Appropriations under this section may include amounts for employees, vehicles, and equipment necessary or incidental to the collection or disposal of solid waste.

36-9-30-7 Sec. 7. (a) Except as provided in subsection (b), the:

(1) construction, acquisition, improvement, equipment, custody, administration, operation, and maintenance of any facilities for the collection and disposal of solid waste; and

(2) collection of revenues for the use and services of the facilities;

are under the supervision and control of the works board of the unit.

(b) The legislative body of a municipality may provide by ordinance that the functions described by subsection (a) are under the supervision and control of the sanitary board or utility service board of the municipality.

(c) As used in the following sections of this chapter, "board" means the works board or other board performing the functions described by subsection (a).

36-9-30-8 Sec. 8. The board may take all steps and proceedings and enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter. However, any contract relating to the financing of the acquisition, construction, or purchase of facilities for the collection and disposal of solid waste must be approved by the fiscal body of the unit before it is effective.

36-9-30-9 Sec. 9. The board may employ, fix the compensation of, and assign the duties of engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and other employees it considers necessary in the execution of its powers and duties.

36-9-30-10 Sec. 10. All expenses incurred by the board in carrying out this chapter shall be paid solely from money provided under this chapter. The board may not bind itself or the unit beyond the extent to which money has been or may be provided under this chapter.

36-9-30-11 Sec. 11. After the:

(1) construction, installation, and completion; or

(2) acquisition;

of facilities for the collection and disposal of solid waste, the board shall operate, manage, and control the facilities. The board may extend and improve the facilities, if money is available for that purpose under this chapter.

36-9-30-12 Sec. 12. The board shall adopt rules for the use and operation of facilities constructed or acquired under this chapter.

36-9-30-13 Sec. 13. The board shall do all things necessary or expedient for the successful operation of facilities constructed or acquired under this chapter.

36-9-30-14 Sec. 14. A unit constructing, acquiring, or maintaining facilities for the collection and disposal of solid waste may contract with a unit that wants to use the facilities for the payment of all or part of the cost and expenses of the facilities, for any term not exceeding twenty-five (25) years. A contract under this section must be executed in accordance with IC 36-1-7.

36-9-30-15 Sec. 15. The acquisition, establishment, construction, installation, operation, and maintenance of facilities and land for the collection and disposal of solid waste may be financed through general taxation, service fees, or a combination of these methods.

36-9-30-16 Sec. 16. (a) All or part of the necessary preliminary expenses that are incurred by a board and must be paid before the issuance and delivery of revenue bonds under this chapter may be paid in the manner provided by this section.

(b) The board may certify the items of expense to the fiscal officer of the unit, who shall immediately draw a warrant or warrants to be paid out of the unappropriated part of the general fund of the unit, without a special appropriation being made. If the unit has no unappropriated money in its general fund, the fiscal officer shall recommend to the fiscal body of the unit:

(1) the temporary transfer from other funds of a sufficient amount to meet the items of expense; or

(2) the making of a temporary loan for that purpose.

The fiscal body shall immediately make the transfer or authorize the temporary loan.

(c) The fund or funds from which the payments are made shall be fully reimbursed and repaid out of the first proceeds of the sale of revenue bonds, and before any other disbursements are made from those proceeds. The amount advanced to pay preliminary expenses is a first charge against the proceeds resulting from the sale of the revenue bonds until it has been repaid.

36-9-30-17 Sec. 17. (a) The unit may issue revenue bonds to provide all or part of the money necessary to pay the costs of facilities acquired or constructed under this chapter. The bonds, which are payable solely from the fund established under section 18 of this chapter, must be authorized by an ordinance of the fiscal body of the unit, setting forth the terms and conditions of the bonds.

(b) The bonds may bear interest at any rate determined by the ordinance, payable semiannually, and mature serially, either annually or semiannually and beginning at the time and extending over the period of years determined by the ordinance.

(c) The ordinance may include the terms and conditions considered necessary and proper to protect the bondholders.

(d) The bonds shall be issued in the name of the unit, but they are not a corporate indebtedness of the unit. The bonds must contain a statement on their face that the unit is not obligated to pay them or the interest on them, except from the fund established under section 18 of this chapter.

(e) The bonds are negotiable instruments.

(f) The bonds and the interest on them are exempt from all state, county, and municipal taxation.

(g) The bonds shall be executed in the same manner as other bonds issued by the unit are executed, and shall be sold in accordance with IC 5-1-11.

36-9-30-18 Sec. 18. The ordinance authorizing the revenue bonds must also:

(1) establish a sinking fund for the payment of the bonds, the interest on the bonds, and the charges of banks or trust companies for making payment of the bonds or interest; and

(2) pledge the revenues of the facilities, after the payment of the reasonable expense of operation, repair, and maintenance, into the sinking fund at intervals to be determined by the ordinance, for:

(A) the payment of interest on the bonds as it falls due;

(B) the payment of the bonds as they fall due; and

(C) the accumulation of reasonable reserves in the sinking fund as a margin for safety and a protection against default, and for the payment of premiums upon bonds retired by call or purchase.

The required payments constitute a first charge upon the revenues of the facilities, after the payment of the reasonable expense of operation, repair, and maintenance.

36-9-30-19 Sec. 19. (a) All money received from any revenue bonds issued under this chapter, after reimbursements for preliminary expenses under section 16 of this chapter, shall be applied solely to the payment of the costs of the facilities acquired or constructed under this chapter. Any surplus of bond proceeds above that amount shall be paid into the fund established under section 18 of this chapter. The holders of the bonds have a lien on the money until it is applied in the manner prescribed by this section.

(b) For purposes of this section, costs of the facilities include:

(1) the cost of all property and rights considered necessary or convenient for installing, constructing, and equipping the facilities;

(2) interest on bonds before and during the acquisition, installation, construction, and equipment of the facilities, and for six (6) months after the start of collection of fees under this chapter;

(3) engineering and legal expenses;

(4) expenses for estimates of cost and revenues;

(5) expenses for surveys and plans;

(6) other expenses necessary or incidental to determining the feasibility or practicability of the method or methods to be used for the disposal of solid waste;

(7) administrative expenses; and

(8) other expenses necessary or incidental to financing under this chapter.

36-9-30-20 Sec. 20. (a) An action to question the validity of the revenue bonds or to prevent their issuance may not be brought after the date fixed for their sale.

(b) Any holder of any of the revenue bonds or the coupons attached to them may bring any action necessary to:

(1) protect and enforce his rights under this chapter or the ordinance authorizing the bonds; and

(2) enforce and compel performance of all duties required by this chapter or the ordinance authorizing the bonds, including the making and collecting of reasonable and sufficient fees for the use of and services rendered by the facilities for the disposal of solid waste.

However, the unit may not be compelled to pay fees on behalf of other users or owners.

(c) If there is a failure to pay the principal or interest of any of the bonds on the date named for payment, any court having jurisdiction of the action may appoint a receiver to administer the facilities on behalf of the unit and the bondholders. The receiver may:

(1) charge and collect from all users or owners fees sufficient to provide for the payment of the expenses of operation, repair, and maintenance;

(2) pay any bonds and interest outstanding; and

(3) apply the revenues in conformity with this chapter and the ordinance authorizing the bonds.

36-9-30-21 Sec. 21. (a) The fiscal body of the unit owning, operating, and maintaining facilities for the collection or disposal of solid waste may, by ordinance, establish and maintain just and equitable fees for the use of and the service rendered by the facilities.

(b) If the fiscal body of a unit has authorized the issuance of revenue bonds under this chapter, it shall, as long as the bonds are outstanding, establish and maintain fees with respect to the facilities for which the bonds are issued.

(c) The aggregate amount of the required fees must be sufficient to pay the cost of operation, repair, depreciation, and maintenance of the facilities, and to pay the sums required to be paid into the bond fund under this chapter.

(d) The ordinance may provide that the fees are payable:

(1) by either the users of the facilities, the owners of the property served by the facilities, or the unit; or

(2) by the users, owners, and the unit in the proportions fixed by the ordinance.

(e) Revenues collected under this section are considered revenues of the facilities.

(f) The fees may not be established until after a public hearing at which the users of the facilities, the owners of property served or to be served by the facilities, and other interested parties have an opportunity to be heard concerning the proposed fees and the provisions concerning payment of the fees.

(g) After introduction of the ordinance fixing the fees and providing for their payment, and before the ordinance is finally adopted, notice of the hearing, setting forth the proposed schedule of fees and the provisions concerning payment, shall be published in accordance with IC 5-3-1.

(h) After the hearing, which may be adjourned from time to time, the ordinance, as originally introduced or as amended, shall be passed and put into effect. A copy of the schedule of fees established shall be kept on file in the office of the board and in the office of the fiscal officer of the unit. The fee schedule is a public record.

(i) The fees or the provisions for their payment may be changed or readjusted in the manner by which they were originally established. However, if the change or readjustment is made substantially pro rata as to all classes of use or service, no hearing or notice is required.

(j) If:

(1) a user of the facilities; or

(2) an owner of property served by the facilities;

does not pay a fee within thirty (30) days after it is due, the amount of the fee, together with a penalty of ten percent (10%) and a reasonable attorney's fee, may be recovered by the unit in a civil action in the name of the unit.

(k) The unit is subject to the fees established under this chapter. The unit shall pay the fees when due, and the payments are considered part of the revenues of the facilities.

36-9-30-22 **Sec. 22. (a) At the request of the board, the fiscal body of the unit may, by ordinance, establish a solid waste disposal nonreverting capital fund.**

(b) Capital for the fund consists of:

(1) deposits by the board of the revenues of its facilities that remain after payment of expenses, in an amount determined by the fiscal body upon the recommendation of the board; and

(2) appropriations of money derived from user fees, in an amount determined by the fiscal body.

(c) After an appropriation by the fiscal body, the board may use the fund for:

(1) acquisition of property and other rights;

(2) installing, constructing, equipping, expanding, modifying, or remodeling new or existing facilities; or

(3) engineering, legal, surveying, estimating, appraising, planning, designing, and other expenses necessary to determine the feasibility of implementing solid waste disposal methods.

36-9-30-23 **Sec. 23. (a) A garbage grinder may not be installed on any private property under this chapter unless the property owner and the tenant, if any, files a written request for garbage disposal service and the installation of a garbage grinder.**

(b) The users of garbage grinders may discontinue the service at any time by filing a written request for the discontinuance of the service with the board.

(c) All property rights in the garbage grinders remain in the unit. The unit may remove a garbage grinder upon the discontinuance of the service by the user or if any fees are not paid within thirty (30) days after they are due.

(d) The users of garbage grinders are responsible for any damages to the grinders, except for ordinary wear and tear.

36-9-30-24 Sec. 24. (a) A unit may enter into a lease with option to purchase of solid waste disposal facilities inside or outside the corporate boundaries of the unit. However, a lease with an option to purchase may not be entered into for a term of more than thirty (30) years unless:

(1) the lessor is a corporation organized under Indiana law or admitted to do business in Indiana;

(2) a petition for the lease, signed by fifty (50) or more resident taxpayers of the unit, has been filed with the board; and

(3) the board has, after investigation, determined that there is a need for the facilities.

The terms and conditions of the option to purchase must be specified in the lease.

(b) A lease under this section may provide that as a part of the lease rental for the solid waste disposal facilities, the unit agrees to:

(1) pay all taxes and assessments levied against or on account of the leased property;

(2) maintain insurance on the leased property for the benefit of the lessor corporation; and

(3) assume all responsibilities for repair and alterations of the leased property during the term of the lease.

36-9-30-25 Sec. 25. (a) After the lessor corporation and the unit have agreed upon the terms and conditions of a lease under section 24 of this chapter, and before the final execution of the lease, notice of a hearing to be held before the board shall be given to all interested persons. The hearing may not be earlier than ten (10) days after the publication of notice.

(b) The notice of hearing shall be published one (1) time in the manner prescribed by IC 5-3-1. The notice must name the day, place, and hour of the hearing and set forth a brief summary of the principal terms of the lease, including the location and name of the proposed lessor corporation, the character of the property to be leased, the rental to be paid, the term of the lease, and a summary of the terms of purchase under the option. The cost of publication shall be paid by the lessor corporation.

(c) The proposed lease, drawings, plans, specifications, and estimates for the solid waste disposal facilities shall be kept available for inspection by the public during the ten (10) day period and at the meeting.

(d) At the hearing, which may be adjourned from time to time, all interested persons are entitled to be heard upon the necessity for the execution of the lease and upon the fairness and reasonableness of the rental and purchase price provided for in the lease.

(e) After the hearing, the board may authorize the execution of the lease as originally agreed upon or make the modifications in the lease that are agreed upon with the lessor corporation. However, the lease rental or purchase price as set out in the published notice may not be increased.

36-9-30-26 Sec. 26. When the execution of a lease is authorized under section 25 of this chapter, the board shall give at least thirty (30) days' notice of the date upon which the lease will be executed. The notice shall be published one (1) time in the manner prescribed by IC 5-3-1. An action to contest the validity of the lease or to enjoin the performance of any of the terms and conditions of the lease may not be brought after the execution of the lease.

36-9-30-27 Sec. 27. In anticipation of the acquisition of a site and the construction and erection of solid waste disposal facilities, including the necessary equipment and appurtenances, a unit may enter into a lease with option to purchase with a lessor corporation, subject to the approval of the state board of tax commissioners. Such a lease may not provide for the payment of any lease rental by the lessee until the facilities are completed and ready for solid waste disposal. The lessor corporation shall agree in the lease to furnish a bond satisfactory to the lessee and conditioned upon final completion of the facilities within the period specified in the lease, except for unavoidable delays.

36-9-30-28 Sec. 28. A unit that wants to have solid waste disposal facilities erected on land owned or to be acquired by the unit may:

(1) sell that land to the lessor; or

(2) lease that land to the lessor for a nominal rental for the same period of years that the unit leases the facilities, and grant an option to the lessor to purchase the land within six (6) months after the termination of the lease of the facilities if the unit defaults under the terms of the lease and the lease is terminated.

If the option price on the land is not fixed in the original lease, the circuit court for the county shall appoint three (3) appraisers who reside in the unit to determine the price to be paid for the land under the option.

36-9-30-29 Sec. 29. (a) A lessor corporation proposing to build solid waste disposal facilities, including the necessary equipment and appurtenances, shall, after the execution of the lease, submit to the unit plans, specifications, and estimates for the facilities. The plans and specifications shall be submitted to the state board of health and must be approved in writing by the state board and by the unit before the execution of the lease.

(b) This section does not prohibit the unit from contracting for the preliminary engineering design work necessary to initiate the planning and engineering of the solid waste disposal facilities, and making provisions for payment for these services.

36-9-30-30 Sec. 30. A unit that wants to lease solid waste disposal facilities under this chapter shall annually levy a tax sufficient to produce the money required to pay the rental stipulated in the lease. The levy may be reviewed by other bodies vested by law with that authority, in order to ascertain that the levy is sufficient to raise the amount required under the lease.

36-9-30-31 Sec. 31. A solid waste disposal facility leased by a lessor corporation to a unit under this chapter is exempt from all state, county, and other taxes, including all sales and use taxes applicable to tangible personal property incorporated or to be incorporated in the facility. However, the rental paid to a lessor corporation under the terms of such a lease is subject to all applicable taxes.

36-9-30-32 Sec. 32. (a) If a unit exercises an option to purchase contained in a lease under section 24 of this chapter, it may pay the purchase price of the facilities purchased with money obtained from bonds issued and sold under the statutes governing the issue and sale of bonds of the unit.

(b) If the unit does not exercise the option to purchase at the expiration of the lease, the solid waste disposal facilities covered by the lease become the absolute property of the unit upon the unit's full discharge and performance of its obligations under the lease. The lessor corporation shall execute proper instruments conveying to the unit good and merchantable title to the facilities.

(c) If the unit does not exercise the option to purchase, then the board, subject to the approval of the fiscal body of the unit, may extend the lease of the solid waste disposal facility for the term, not to exceed a period equal to the term of the original lease, and for the consideration agreed to by the parties to the original lease or their assignees. At the end of the extension period, the facility covered by the lease becomes the absolute property of the unit, and the lessor corporation shall execute all proper instruments to convey the facility to the unit.

36-9-30-33 Sec. 33. The Indiana environmental management board may adopt rules to carry out this chapter.

36-9-30-34 Sec. 34. Action taken by the Indiana environmental management board under this chapter does not limit the powers of other governmental entities to make or enforce other statutes, ordinances, or rules for the storage, collection, removal, or disposal of solid waste, if they do not conflict with this chapter. For purposes of this section, the provisions of this chapter shall be construed as cumulative or alternative.

36-9-30-35 Sec. 35. (a) Solid waste may be disposed of on land only through use of sanitary landfills, incineration, composting, garbage grinding, or other acceptable methods approved by the Indiana environmental management board. A person may not operate or maintain an open dump.

(b) A person may not operate or maintain facilities for the collection and disposal of solid waste, except as set out in section 4 of this chapter or under rules adopted by the Indiana environmental management board.

(c) Failure to comply with this section constitutes the operation of a nuisance inimical to human health. A prosecuting attorney who receives a report of such a failure from the secretary of the Indiana environmental management board, an authorized agent of the secretary, or a local health officer shall cause appropriate court proceedings to be instituted.

(d) A person who fails to comply with this section commits a Class C infraction. If the offense is of a continuing nature, each day of failure to comply constitutes a separate offense.

(e) The Indiana environmental management board may bring proceedings for injunctive or mandatory relief through the attorney general against any person (including any agency of the state or federal government) for failure to comply with this section.

IC 19-2-1-33

(All of IC 19-2-1 [the Refuse Disposal Act] except for this section was repealed by Acts 1981, PL 309)

19-2-1-33 Sanitary landfill near residential subdivision prohibited; violation; penalty

Sec. 33. (a) After August 1, 1977, no person, firm, association, corporation, county, city, town, political subdivision of the state, or unit of government may establish a sanitary landfill for the disposal of garbage, rubbish, or refuse on lands in this state within one-half (½) mile of any area which has been subdivided for residential purposes, the plat of which is on file in the office of the county recorder at the time the landfill is established.

(b) Any person, firm, association, corporation, county, city, town, political subdivision of the state, or unit of government who violates the provisions of this section shall be fined not more than one thousand dollars ($1,000). Provided, however, that each additional day of violation shall constitute a separate violation.

(c) The provisions of this section shall apply to all counties containing a population of not less than 450,000 nor more than 650,000 according to the last decennial census. *As added by Acts 1977, P.L.360, SEC.1.*

ENVIRONMENTAL MANAGEMENT BOARD
OF THE INDIANA STATE BOARD OF HEALTH

RULE 320 IAC 5

SOLID WASTE MANAGEMENT PERMITS

Rules 1 through 9
Formerly Regulation SPC 18
Formerly 330 IAC 4-1 through
330 IAC 4-9

ENVIRONMENTAL MANAGEMENT BOARD
1330 West Michigan Street
Indianapolis, IN 46206

ARTICLE 5. REFUSE DISPOSAL ACT; SOLID WASTE MANAGEMENT PERMITS; INDUSTRIAL WASTE HAULER PERMITS

Cited in: 320 IAC 5-9-4; 320 IAC 5-9-5.

Rule 1. Solid Waste Management; Purpose and General Standards

Rule 2. Solid Waste Management; Definitions

Rule 3. Solid Waste Management; State Permits for Construction of Sanitary Landfill Facilities

Rule 4. Solid Waste Management; State Permits for Construction of Refuse Processing Facilities

Rule 5. Solid Waste Management; State Permits for Operation of a Sanitary Landfill

Rule 6. Solid Waste Management; State Permits for Operation of Refuse Processing Facilities

Rule 7. Solid Waste Management; Duration of Permits

Rule 8. Solid Waste Management; Renewal of Permits

Rule 9. Solid Waste Management; Miscellaneous

Rule 10. Industrial Waste Haulers: Permit Regulations

Rule 1. Solid Waste Management; Purpose and General Standards

Cited in: 320 IAC 5-1-1 — 320 IAC 5-1-4; 320 IAC 5-10-3.

320 IAC 5-1-1	Purpose of rule
320 IAC 5-1-2	Manner of refuse collection and disposal
320 IAC 5-1-3	Unlawful advertising
320 IAC 5-1-4	Existing facilities; time for obtaining operating permits
320 IAC 5-1-5	Grant of operating permit to new facilities; conditions
320 IAC 5-1-6	Transfer of construction plan permits
320 IAC 5-1-7	Transfer of operating permits
320 IAC 5-1-8	Appeal from denial of transfer of permit

320 IAC 5-1-1 Purpose of rule

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-1-2; IC 13-7-10-1; IC 36-9-30-1; IC 36-9-30-3; IC 36-9-30-4

Sec. 1. The purpose of this regulation *[320 IAC 5-1]* is to provide standards for approval of refuse processing and disposal facilities as required by Section 3 *[IC 36-9-30-3]* of the Refuse Disposal Act, as amended, provide for the issuance of construction plan permits. specify minimum operating standards for such facilities, and provide for the issuance of operating permits. *(Indiana Environmental Management Board; SPC 18, Ch I, Sec 1; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 565) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-1-2 Manner of refuse collection and disposal

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-4-1; IC 19-2-1-4; IC 36-9-30-5; IC 36-9-30-35

Sec. 2. Increased recovery of materials from refuse should be encouraged. Refuse disposal shall be in a manner which is not injurious to the public health or the environment.

(a) All contracts let by governmental units for refuse collection, hauling, or disposal shall specify that disposal shall be in a place and in a manner which is in accordance with this regulation *[320 IAC 5-1]*.

(b) No person shall dispose of refuse by open dumping or open burning.

(c) Recycling stations shall be maintained in nuisance-free condition.

(Indiana Environmental Management Board; SPC 18, Ch I, Sec 2; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 565) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.

320 IAC 5-1-3 Unlawful advertising

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-3; IC 36-9-30-1; IC 36-9-30-3; IC 36-9-30-4

Sec. 3. It shall be unlawful for any refuse disposal facility to have the terms "sanitary landfill" or "landfill" in advertising or on signs unless such a facility holds a valid operating permit under this regulation *[320 IAC 5-1]*, except that conditions stated in Part IX, Section 1 *[320 IAC 5-9-1]*, shall apply. *(Indiana Environmental Management Board; SPC 18, Ch I, Sec 3; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 565) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-1-4 Existing facilities; time for obtaining operating permits

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-2; IC 13-7-10-3; IC 36-9-30-1; IC 36-9-30-3; IC 36-9-30-4

Sec. 4. (a) Existing facilities which hold valid letters of approval from the Stream Pollution Control Board or the Indiana State Board of Health must submit complete applications for operating permits within three months of the effective date of this regulation *[320 IAC 5-1]*.

(b) Existing facilities which do not hold valid letters of approval from the Stream Pollution Control Board or the Indiana State Board of Health must submit complete applications for construction plan permits within six months of the effective date of this regulation *[320 IAC 5-1]*. Upon written request received within three months of the effective date of this regulation *[320 IAC 5-1]* the Board may waive certain information required by Part III *[320 IAC 5-3]* for an existing facility. *(Indiana Environmental Management Board; SPC 18, Ch I, Sec 4; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 566) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-1-5 Grant of operating permit to new facilities; conditions

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-2; IC 36-9-30-1; IC 36-9-30-3; IC 36-9-30-4

Sec. 5. No operating permit for a new facility shall be granted until all construction specified by the construction plan permit is completed, nor will any operating permit be issued for any new facility which does not hold a valid construction plan permit. *(Indiana Environmental Management Board; SPC 18, Ch I, Sec 5; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 566) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-1-6 Transfer of construction plan permits

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-2; IC 36-9-30-1; IC 36-9-30-3; IC 36-9-30-4

Sec. 6. Construction plan permits may be transferable. Prior to change in ownership, an application form must be submitted to the Board. *(Indiana Environmental Management Board; SPC 18, Ch I, Sec 6; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 566) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-1-7 Transfer of operating permits

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-2; IC 13-7-10-3; IC 36-9-30-17; IC 36-9-30-18; IC 36-9-30-20

Sec. 7. Operating permits may be transferable. Prior to change in ownership an application form must be submitted to the Board. *(Indiana Environmental Management Board; SPC 18, Ch I, Sec 7; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 566) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-1-8 Appeal from denial of transfer of permit

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-4

Sec. 8. Any person denied transfer of any permit may appeal as set out in IC 1971, 13-7-10-4. *(Indiana Environmental Management Board; SPC 18, Ch I, Sec 8; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 566) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

Rule 2. Solid Waste Management; Definitions

Cited in: 320 IAC 5-10-3.

320 IAC 5-2-1 Definitions

320 IAC 5-2-1 Definitions

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-1-2; IC 36-9-30-2; IC 36-9-30-4

Sec. 1. Definitions. In addition to the definitions contained in IC 1971, 19-2-1, as amended by P. L. 148 of the Acts of 1972, and in IC 1971, 13-7, the following definitions shall apply herein, unless otherwise indicated clearly by text:

(1) "Access Roads" means roads which lead to the entrance of a refuse processing or disposal facility, normally, a county, state or federal highway.

(2) "Aquifer" means a porous water-bearing geologic formation, such as sand, gravel, sandstone and fractured or cavernous limestone, from which water can be drawn by wells in useable quantities.

(3) "Bedrock" means cemented or consolidated earth materials, undisturbed by erosion or weathering, exposed on the earth's surface or underlying unconsolidated earth materials.

(4) "Board" means the Stream Pollution Control Board.

(5) "Carcasses" means dead animal or portion thereof.

(6) "Cell" means a deposit of refuse, compacted and completely enveloped by cover.

(7) "Cover" means soil which is used to bury refuse.

(8) "Daily Cover" means that cover which is placed over refuse and compacted at the end of an operating day.

(9) "Decomposition" means the chemical or biological breakdown through time of refuse into constituent chemicals or other products.

(10) "Decomposition Gases" means gases produced by decomposition.

(11) "Energy Recovery Operation" means the processing of refuse so that energy or gases may be recovered.

(12) "Facility" means, except in Part IV *[320 IAC 5-4]*, any operation for the disposal or processing of refuse, including the site upon which the operation rests.

(13) "Final Cover" means cover placed and compacted over a refuse disposal area upon completion of the refuse disposal use of that area.

(14) "Flood Plain" means the area adjoining a river, stream or lake, which would be covered by floodwater from the 100-year frequency flood.

(15) "Floodway" means the channel of a river or stream and those portions of the flood plain adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the 100-year frequency flood.

(16) "Grading" means the contouring of land so that surface water flow and erosion are controlled according to a predetermined plan.

(17) "Groundwater" means water filling the pore spaces of earth materials below the water-saturated zone.

(18) "Groundwater Table" means the upper surface of the water-saturated zone.

(19) "Hazardous Wastes" means any solid or liquid waste with inherent dangers, including but not limited to, toxic chemicals, explosives, pathological wastes, radioactive materials, materials likely to cause fires, liquids, semi-liquids, sludges containing less than thirty percent solids, pesticides, pesticide containers, raw animal manure, septic tank pumpings, and raw or digested sewage sludge.

(20) "Hydrology" means the properties, distribution, and flow of water on or in the earth.

(21) "Incinerator" means any apparatus to burn waste substances in which all the factors of combustion — temperature, retention time, turbulence, and combustion air — can be controlled.

(22) "Landfill" means a sanitary landfill.

(23) "Leachate" means liquid that has percolated through solid waste or other deposited materials and has extracted soluble or suspended substances from it.

(24) "Lift" means a horizontal layer of cells covering a designated area of a sanitary landfill.

(25) "Local" means city, town, county, or district as established pursuant to IC 1971, 19-3-1.

(26) "Manually Discharged Vehicle" means a vehicle which must be unloaded by the physical handling of refuse by a person; for example, a pickup truck.

(27) "Mechanically Discharged Vehicle" means a vehicle which unloads refuse automatically, with hydraulic devices.

(28) "Modification" means a change in form or method of operation of any facility.

(29) "On-site Roads" means roads for the passage of vehicles from a site entrance to the working face.

(30) "Operating Personnel" means persons necessary to properly operate a refuse disposal or processing facility.

(31) "Point of Generation" means that place where a material initially becomes discarded, for processing or disposal, as refuse.

(32) "Processing" means the method, system, or other treatment of refuse so as to change its chemical or physical form or affect it for disposal or recovery of materials, but excluding vehicles for the transportation of refuse from its point of generation.

(33) "Recycling Station" means a facility for the storage of separated solid wastes prior to transportation to markets.

(34) "Refuse Disposal" means the permanent or semi-permanent placement of refuse in any location.

(35) "Refuse Handling Equipment" means equipment used for the processing or disposal of refuse.

(36) "Resource Recovery Plant" means any facility which has as at least one of its purposes the processing of refuse into commercially valuable materials or energy.

(37) "Salvaging" means the controlled removal of materials from refuse for utilization.

(38) "Sanitary Landfill" means an engineering method of disposing of refuse on land in a manner that protects the public health and environment by spreading the waste in thin layers, compacting it to the smallest practical volume, and covering it with compacted soil at the end of each working day.

(39) "Scavenging" means the uncontrolled removal of materials from refuse.

(40) "Sludge" means a semi-liquid sediment.

(41) "Soil Borings" means the drilling of holes in the earth for the purpose of identifying soil types, sub-surface materials, and groundwater table level.

(42) "Surface Water" means water present on the surface of the earth, including: streams, lakes, ponds, rivers, swamps, marshes, or rainwater present on the earth.

(43) "Transfer Station" means a facility for the acceptance, holding, and loading of refuse into a vehicle for movement to a processing or disposal facility, excluding stationary compactors and collection containers.

(44) "Vector" means any living animal capable of harboring and transmitting microorganisms from one animal to another animal or a human.

(45) "Water Course" means the path taken by flowing surface waters.

(46) "Water Table" means groundwater table.

(47) "Working Face" means that portion of a sanitary landfill where refuse is discharged from collection trucks and is compacted prior to placement of cover material. *(Indiana Environmental Management Board: SPC 18,Ch II; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 566) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

Rule 3. Solid Waste Management; State Permits for Construction of Sanitary Landfill Facilities

Cited in: 320 IAC 5-1-4; 320 IAC 5-4-9; 320 IAC 5-9-2; 320 IAC 5-10-3.

320 IAC 5-3-1	Construction permit required
320 IAC 5-3-2	Application for permit; form; time for submission
320 IAC 5-3-3	Signatures required on application for permit
320 IAC 5-3-4	Plans, specifications and description of project; information required
320 IAC 5-3-5	Issuance or denial of permit; appeal
320 IAC 5-3-6	Deviation from approved plan; amendment required

320 IAC 5-3-1 Construction permit required

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-4-1; IC 13-7-10-1; IC 36-9-30-2; IC 36-9-30-4

Sec. 1. No person shall cause or allow the construction of sanitary landfill facilities without a valid construction plan permit issued by the Stream Pollution Control Board or its designated agent. *(Indiana Environmental Management Board; SPC 18,Ch III,Sec 1; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 569) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-3-2 Application for permit; form; time for submission

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2

Sec. 2. Complete applications for construction plan permits for constructing sanitary landfill facilities must be made on forms provided by the Board and must be submitted together with the required plans, specifications, and description of project 60 days in advance of the proposed date of start of construction unless a shorter time is approved in advance by the Board. *(Indiana Environmental Management Board; SPC 18, Ch III, Sec 2; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 569) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-3-3 Signatures required on application for permit

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2

Sec. 3. Applications for a sanitary landfill construction plan permit must be signed by the person preparing the accompanying plans, specifications, and description of project. Applications must also be signed by the owner and the person who shall be responsible for the quality of operation, affirming that such person shall adhere to the method of operation specified in the plans, specifications and description of project, and any conditions included in the construction plan permit. *(Indiana Environmental Management Board; SPC 18, Ch III, Sec 3; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 569) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-3-4 Plans, specifications and description of project; information required

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2

Sec. 4. Applications for a sanitary landfill construction plan permit shall be accompanied by two copies of the following plans, specifications, description of project, and other required information:

(a) Evidence that proper zoning has been obtained for the proposed site. Give the legal description of the site.

(b) USGS topographical quadrangle map or maps necessary to include the proposed site and manmade and natural surface features within one mile of the site. Indicate on this map any airports within five miles of proposed site.

(c) A map which depicts zoning and present land use on and within one-half mile of the proposed site. Included shall be all recorded locations of wells, sewers, culverts, drainage tiles, pipe lines, power lines, gas or oil wells, surface water, water courses, and roads.

(d) The following plot plans are to be submitted using a scale of one inch = 100 feet for a site of less than 80 acres or a scale of 1 inch = 200 feet for a site of 80 acres or more.

(i) A plot plan of the proposed site and adjacent areas necessary to depict listed features. This drawing shall include locations of all existing and proposed on-site roads, water courses, surface water, existing and proposed building, soil boring locations, rock outcroppings, surface water runoff direction, fencing, and present land surface contour at intervals of no more than five feet.

(ii) A second plot plan to include land surface contours at intervals of no more than five feet; storm water drainage during operation; portions of the site where refuse will be deposited, showing method of operation and direction it will proceed; depth, length, and width of trenches, if used; depth of lifts and size of working face; portions of the site to be used only acquisition of cover soil.

(iii) A third plot plan to include final land surface contours at intervals of two feet, surface water runoff direction, and storm water drainage after completion of the operation.

(e) Geological cross-sectional drawings of the legal section or sections from the plat book within which the proposed landfill site is located, showing types of materials from the ground surface down to and including bedrock, depth to water table, and present and final topographies: one north-south and one east-west drawing must be submitted. Describe the geologic origins of all earth materials and document the sources of information.

(f) A drawing of proposed sign or signs, indicating size and legend, as required by Part V, Section 9(d) *[320 IAC 5-5-8(d)]*.

(g) Cross-sectional drawings showing proposed construction of on-site all-weather roads.

(h) Reports of soils, groundwater, and geology, including the following:

(i) Through consultation with the Solid Waste Management Section, the number and types of soil borings to be taken at each proposed site will be determined All borings are to be taken to a depth of at least 20 feet below the lowest level of proposed excavation or refuse filling operation or to bedrock, whichever is shallower.

(ii) Logs of all borings are to include particle size distribution for the entire depth of the boring, indication of zones of saturation and measured water level immediately after boring is made and after 24 hours.

(iii) Samples from the borings taken on the proposed sanitary landfill site are to be tested for permeability, compactability, and ion exchange properties of the subsurface materials for those strata which are essential to the design of the landfill. Samples are to be held until the construction plan permit is issued.

(iv) Boring information for all wells located within ¼ mile of the proposed site which have been recorded with the Department of Natural Resources.

(v) A soils map and related descriptive data, as published by the U.S.D.A., Soil Conservation Service, or as determined by a qualified agency or individual using the Unified Soil Classification System.

(i) Where specified, groundwater monitoring wells shall be established around the perimeter of the landfill site; the exact number, locations depth, construction method and sampling frequency are to be determined in consultation with the Board or its designated agent.

(j) A narrative describing the proposed operation, including:

(i) Population and areas expected to be served by the proposed site.

(ii) Anticipated quantity, types, and sources of materials to be deposited.

(iii) Name and address of party responsible for quality of operation and maintenance of the proposed site.

(iv) Thickness of daily cover to be applied.

(v) Thickness of final cover to be applied.

(vi) Source and type of cover material, for daily and final cover.

(vii) The equipment to be used for placement and compaction of all refuse, excavation of soil, moving of stockpiled soil; and application of soil to compacted refuse.

(viii) The provisions to be made to have backup equipment available.

(ix) Winter and inclement weather operating procedures.

(x) Procedures for handling of bulky refuse such as refrigerators, stoves, tree trunks, tires, fence wire, etc.

(xi) The number of operating personnel on-site and the operating records to be kept.

(xii) The anticipated cost of site preparation.

(xiii) The supervision that is planned.

(xiv) Procedures for handling of blowing paper.

(xv) Procedures for dust control.

(xvi) Procedures to be used to avoid open burning.

(xvii) Indicate 100-year frequency flood level in the vicinity of this site. Construction in the 100-year flood way must have approval of the Natural Resources Commission in addition to approval by the Board. Plans should be submitted simultaneously to both agencies.

(xviii) Details of salvage operations, if planned, to include frequency of removal and party responsible for hauling salvaged materials.

(xix) Equipment maintenance facilities.

(xx) Proposed methods of control for rodents, flies, mosquitoes, and other vectors.

(xxi) Distance from the site to the nearest dwelling.

(xxii) Safety equipment and hygienic facilities for employees.

(xxiii) Proposed leachate control measures.

(xxiv) Proposed land use after completion of project.

(xxv) Assessment of need for groundwater monitoring wells.

(xxvi) Distance between successive trenches, where the trench method is to be used.

(xxvii) Assessment of need for gas control and indication of location and design of vents or other control measures to be provided.

(Indiana Environmental Management Board: SPC 18, Ch III, Sec 4; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p 569) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.

320 IAC 5-3-5 Issuance or denial of permit; appeal

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-2; IC 13-7-10-4

Sec. 5. Upon completion of review of the submitted application and accompanying materials, the Board shall make a determination of the acceptability of the site and proposed operation with regard to protection of the public health and environment. If the finding is favorable, a construction plan permit will be issued. If the finding is unfavorable, a notice of permit denial will be issued. Appeal shall be as set out by IC 1971, 13-7-10-4. *(Indiana Environmental Management Board; SPC 18, Ch III, Sec 5; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 572) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-3-6 Deviation from approved plan; amendment required

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2

Sec. 6. Any deviation from an approved plan shall first require approval by the Board or its designated agent for an amendment to the construction plan permit. *(Indiana Environmental Management Board; SPC 18, Ch III, Sec 6; filed Aug 15, 1974, 3:19 pm: Rules and*

Regs. 1975, p. 572) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.

Rule 4. Solid Waste Management; State Permits for Construction of Refuse Processing Facilities

Cited in: 320 IAC 5-2-1; 320 IAC 5-9-2; 320 IAC 5-10-3.

320 IAC 5-4-1 "Facilities" defined
320 IAC 5-4-2 Permit for construction required
320 IAC 5-4-3 Application for permit; time for making
320 IAC 5-4-4 Proper zoning required
320 IAC 5-4-5 Signatures on application
320 IAC 5-4-6 Evidence of approval by air pollution control agency; plans, specifications and description of facilities
320 IAC 5-4-7 Transfer stations
320 IAC 5-4-8 Resource recovery plant
320 IAC 5-4-9 Construction plan permits for other processes or techniques
320 IAC 5-4-10 Issuance or denial of permit; appeal
320 IAC 5-4-11 Deviation from approved plan; amendment required

320 IAC 5-4-1 "Facilities" defined

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-1-2; IC 13-7-10-1

Sec. 1. In this Chapter, "facilities" shall mean all equipment, buildings, or other features of a project necessary to conduct the processing of refuse. Excluded are containers utilized for refuse collection and stationary compactors. *(Indiana Environmental Management Board; SPC 18,Ch IV,Sec 1; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 572) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-4-2 Permit for construction required

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-4-1; IC 13-7-10-1

Sec. 2. No person shall cause or allow the construction of facilities for the operation of incinerators with a design capacity which exceeds 30 tons per day, transfer stations, resource recovery plants, or energy recovery operations without a construction plan permit issued by the Board or its designated agent. *(Indiana Environmental Management Board; SPC 18,Ch IV,Sec 2; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 572) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-4-3 Application for permit; time for making

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2

Sec. 3. Complete applications for construction plan permits to construct refuse processing facilities must be made on forms provided by the Board and must be submitted together with the required plans, specifications, and/or description of project 60 days in advance of the date of start of construction unless a shorter time is approved in advance by the Board. *(Indiana Environmental Management Board; SPC 18,Ch IV,Sec 3; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 572) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-4-4 Proper zoning required

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2

Sec. 4. Applications for permits under this Chapter shall be accompanied by evidence that proper zoning has been obtained for the proposed site. *(Indiana Environmental Management Board; SPC 18,Ch IV,Sec 4; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 572) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-4-5 Signatures on application

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2

Sec. 5. Applications for construction plan permits for the construction of refuse processing facilities must be signed as specified in Part III, Section 3. *[320 IAC 5-3-3]* of this regulation. *(Indiana Environmental Management Board; SPC 18,Ch IV,Sec 5; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 572) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

Cited in: 320 IAC 5-4-9.

320 IAC 5-4-6 Evidence of approval by air pollution control agency; plans, specifications and description of facilities

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2

Sec. 6. Applications for construction plan permits for the construction of an incinerator, the design capacity of which exceeds 30 tons per day, must be accompanied by evidence of approval of the air pollution control devices of the incinerator by the Air Pollution Control Board, or by a designated local air pollution control agency, and by a description of the proposed site and method of disposal of incinerator residue. In addition, plans, specifications and a description of all refuse handling equipment and facilities must be submitted with the applications. *(Indiana Environmental Management Board; SPC 18,Ch IV,Sec 6; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 572) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

Cited in: 320 IAC 5-4-9.

320 IAC 5-4-7 Transfer stations

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2

Sec. 7. Applications for construction plan permits for construction of a transfer station must be accompanied by complete plans, specifications, and description of the project, including a land use map of the locations and surrounding area in a radius of five miles, a map of the drainage and sewer system serving the construction site, the anticipated sources of incoming solid waste, and destination of solid waste leaving the transfer station. *(Indiana Environmental Management Board; SPC 18,Ch IV, Sec 7; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 573) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

Cited in: 320 IAC 5-4-9.

320 IAC 5-4-8 Resource recovery plant

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2

Sec. 8. Applications for construction plan permits for construction or modification of a resource recovery plant, including energy recovery operations, must be accompanied by complete plans, specifications and a description of facilities. *(Indiana Environmental Management Board; SPC 18,Ch IV,Sec 8; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 573) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-4-9 Construction plan permits for other processes or techniques

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2

Sec. 9. In order to promote the development of solid waste management technology, the Board may issue construction plan permits for processes or techniques other than those specified in Chapter III *[320 IAC 5-3]* and Chapter IV, Section 5., Section 6., or Section 7. *[320 IAC 5-4-5, 320 IAC 5-4-6, or 320 IAC 5-4-7]* of this regulation. *(Indiana Environmental Management Board; SPC 18,Ch IV,Sec 9; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 573) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

Cited in: 320 IAC 5-6-4.

320 IAC 5-4-10 Issuance or denial of permit; appeal

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-2

Sec. 10. Upon completion of review of the submitted application and accompanying materials, the Board shall make a determination of the acceptability of the proposed project with regard to protection of the public health and environment. If the finding is favorable, a construction plan permit for the facility will be issued. If the finding is unfavorable, a notice of permit denial will be issued. Appeal shall be as set out by IC 1971, 13-7-10-4. *(Indiana Environmental Management Board; SPC 18,Ch IV,Sec 10; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 573) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-4-11 Deviation from approved plan; amendment required

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-2

Sec. 11. Any deviation from an approved plan shall first require approval by the Board or its designated agent of an amendment to the construction plan permit. *(Indiana Environmental Management Board; SPC 18,Ch IV,Sec 11; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 573) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

Rule 5. Solid Waste Management; State Permits for Operation of a Sanitary Landfill

Cited in: 320 IAC 5-5-4; 320 IAC 5-8-2; 320 IAC 5-9-2; 320 IAC 5-10-3.

320 IAC 5-5-1 Operating permit required
320 IAC 5-5-2 Construction plan permit required for issuance of operating permit; joint application
320 IAC 5-5-3 Form for application; time for submission
320 IAC 5-5-4 Signatures required on application
320 IAC 5-5-5 General standards for operation
320 IAC 5-5-6 Water quality standards
320 IAC 5-5-7 Open burning of solid waste prohibited
320 IAC 5-5-8 Aesthetically acceptable manner of operation
320 IAC 5-5-9 Control of decomposition gases
320 IAC 5-5-10 Prevention of vectors
320 IAC 5-5-11 Protection of health and safety of personnel
320 IAC 5-5-12 Operator instructions to employees
320 IAC 5-5-13 Application of cover of compacted soil
320 IAC 5-5-14 Disposal of hazardous and special wastes
320 IAC 5-5-15 Equipment; use; availability of equipment manuals and lists
320 IAC 5-5-16 Plans maintained on site

320 IAC 5-5-1 Operating permit required

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-4-1; IC 13-7-10; IC 36-9-30-1; IC 36-9-30-3; IC 36-9-30-4

Sec. 1. No person shall cause or allow the operation of a sanitary landfill without a valid operating permit issued by the Board. *(Indiana Environmental Management Board; SPC 18,Ch V,Sec 1; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 573) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-5-2 Construction plan permit required for issuance of operating permit; joint application

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2

Sec. 2. No application for an operating permit for a new sanitary landfill will be accepted unless that sanitary landfill holds a valid construction plan permit, except that an application for an operating permit may be submitted at the same time as an application for a construction plan permit. *(Indiana Environmental Management Board; SPC 18,Ch V,Sec 2; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 573) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-5-3 Form for application; time for submission

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2

Sec. 3. Complete applications for operating permits for sanitary landfills must be made on forms provided by the Board at least 60 days prior to the proposed initial date of operation unless a shorter time is approved in advance by the Board. *(Indiana Environmental Management Board; SPC 18,Ch V,Sec 3; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 573) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-5-4 Signatures required on application

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2

Sec. 4. Application for an operating permit for a sanitary landfill must be signed by the owner and the person who shall be responsible for the quality of operation, affirming that such person shall adhere to the method of operation specified in the plans, specifications, and description of project, and shall maintain operational quality at or above the standards set by this Chapter *[320 IAC 5-5]. (Indiana Environmental Management Board; SPC 18,Ch V,Sec 4; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 573) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-5-5 General standards for operation

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-3; IC 36-9-30-1; IC 36-9-30-3; IC 36-9-30-4

Sec. 5. General Standards. Sanitary landfill operations must conform to the following minimum general standards of operation:

(a) All on-site roads shall be passable by vehicles, including automobiles, regardless of weather.

(b) Any shelter or sanitary facilities provided shall be constructed in accordance with the requirements of the Indiana State Board of Health for such construction.

(c) Feeding of cattle, hogs, poultry or other animals at the landfill site is prohibited.

(d) No refuse deposit shall be made nearer than 600 feet to any dwelling without written consent of the occupant and owner of the dwelling.

(Indiana Environmental Management Board; SPC 18,Ch V,Sec 5; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 574) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.

320 IAC 5-5-6 Water quality standards

Authority: IC 13-1-3-7; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-1-3-7; IC 13-7-7-5; IC 13-7-10-3

Sec. 6. Water Quality. Sanitary landfill operations must conform to the following minimum water quality standards:

(a) Where groundwater monitoring wells are deemed necessary by the Board, the sampling frequency will be specified. Tests performed on groundwater samples shall include COD, pH, Fe. Cl, conductivity and other tests deemed necessary by the Board.

(b) Surface water courses and runoff shall be diverted from the sanitary landfill by trenches and proper grading. The sanitary landfill shall be constructed and cover material graded and seeded so as to promote rapid surface water runoff without excessive erosion. Regrading shall be done as required during operation and after completion to avoid ponding and to maintain cover thickness.

(c) In no case shall solid waste be deposited within an aquifer. A barrier of undisturbed soil shall be maintained between the lowest portion of deposited refuse and the aquifer of a thickness to be determined by the Board based upon permeability and ion exchange properties.

(Indiana Environmental Management Board; SPC 18,Ch V,Sec 6; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 574) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.

320 IAC 5-5-7 Open burning of solid waste prohibited

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-4-1; IC 36-9-30-35

Sec. 7. Air Quality. Open burning of solid wastes is prohibited. *(Indiana Environmental Management Board; SPC 18,Ch V,Sec 7; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 574) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-5-8 Aesthetically acceptable manner of operation

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2; IC 13-7-10-3

Sec. 8. Aesthetics. A sanitary landfill shall at all times be operated in an aesthetically acceptable manner.

(a) Portable litter fences or other devices shall be used in the immediate vicinity of the working face and other locations to control blowing litter. Windblown materials must be collected and buried daily.

(b) Access to the site shall be controlled and shall be by established roadways only. The sanitary landfill shall be accessible only when operating personnel are on duty. Large containers may be placed outside the site entrance so that users can deposit waste after hours; the large containers and areas around them shall be maintained in a sanitary and litter-free condition.

(c) Vegetation shall be cleared only as necessary. Natural windbreaks, such as green belts, shall be maintained where they will improve the appearance and operation of the sanitary landfill.

(d) A sign of at least 16 square feet shall be erected at the site entrance identifying the operation, stating operating schedule, fees, and construction plan and operating permit numbers.

(e) Salvaged materials must be stored in transportable containers or in buildings while awaiting removal from the site. In no instance shall salvaged materials be allowed to accumulate on the ground.

(f) On site roads shall be constructed in such a way as to minimize the tracking of mud or soil material onto public highways, or the operator shall maintain the equipment required to remove any mud or soil materials which are tracked onto the public highway. Policing of litter on roads upon the site shall be the responsibility of the owner and operator of that landfill.

(Indiana Environmental Management Board; SPC 18,Ch V,Sec 8; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 574) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.

Cited in: 320 IAC 5-3-4.

320 IAC 5-5-9 Control of decomposition gases

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2; IC 13-7-10-3

Sec. 9. Gases. Decomposition gases generated within a sanitary landfill shall be controlled on-site. Decomposition gases shall not be allowed to migrate laterally from the sanitary landfill site, nor allowed to concentrate in a manner that will pose an explosion or toxicity hazard. *(Indiana Environmental Management Board; SPC 18,Ch V,Sec 9; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 575) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-5-10 Prevention of vectors

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2; IC 13-7-10-3

Sec. 10. Vectors. Effective means shall be taken to prevent the harboring, feeding or breeding of vectors. The presence of adult flies, roaches, mosquitoes, rodents and the immature stages of these and other vectors is inimical to public health. Effective control shall be indicated by the absence of fly larvae, nymphs of roaches, larval mosquitoes, and all other immature stages of vectors, as well as by the absence of mature or adult stages of vectors. *(Indiana Environmental Management Board; SPC 18,Ch V,Sec 10; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 575) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-5-11 Protection of health and safety of personnel

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2; IC 13-7-10-3

Sec. 11. Safety. A sanitary landfill shall be operated and maintained in such a manner as to protect the health and safety of personnel associated with the operation.

(a) Safety devices, including, but not limited to, roll bars and fire extinguishers shall be provided on all rolling equipment to protect the health and safety of operators.

(b) Provision shall be made to extinguish any fires in wastes being delivered to the site or which occur at the working face or within equipment or personnel facilities. Communications equipment shall be available for emergency situations.

(c) Scavenging shall be prohibited to avoid injury and to prevent interference with operations.

(d) Traffic signs shall be provided to promote an orderly traffic pattern to and from the discharge area and, if necessary, to restrict access to hazardous areas or to maintain efficient operating conditions. Manually discharged vehicles shall not hinder operation of mechanically discharged vehicles. No vehicle shall be left unattended at the working face or along traffic routes.

(Indiana Environmental Management Board: SPC 18,Ch V,Sec 11; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 575) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.

320 IAC 5-5-12 Operator instructions to employees

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2; IC 13-7-10-3

Sec. 12. Operator Instructions. An operating manual describing the various tasks that must be performed during a typical shift, as well as safety precautions and procedures, shall be available to employees for reference. Employees shall be instructed as to these tasks and safety precautions and procedures. *(Indiana Environmental Management Board; SPC 18,Ch V,Sec 12; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 576) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-5-13 Application of cover of compacted soil

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2; IC 13-7-10-3

Sec. 13. Cover Applications. A cover of compacted soil shall be applied and compacted over all exposed solid waste by the end of each operating day. A final cover of soil shall be applied and compacted as each area is completed.

(a) Equipment shall spread all solid waste in layers, compact the waste, and place, spread, and compact the cover material. These operations shall be on a working face slope maintained at 3:1 or steeper.

(b) All solid waste shall be covered by the end of each operating day. Daily cover shall be applied regardless of weather. The thickness of the compacted daily cover shall not be less than six inches.

(c) When any portion of a site reaches within two feet of final elevation, compacted final cover shall be applied, not less than two feet in depth. At the termination of operations at a site, final grading shall be done, and the area seeded with suitable vegetation to control erosion.

Final cover shall have a slope of not less than 2 percent and be without depressions that will cause ponding of water.

(Indiana Environmental Management Board; SPC 18,Ch V,Sec 13; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 576) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.

320 IAC 5-5-14 Disposal of hazardous and special wastes

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2; IC 13-7-10-3

Sec. 14. Hazardous and Special Wastes. The disposal of hazardous and special wastes must conform to the following:

(a) Under no circumstances shall hazardous wastes be accepted at a sanitary landfill unless authorized in writing by the Board or its designated solid waste management agent.

(b) Certain bulky wastes, such as automobiles bodies, furniture, and appliances shall be crushed on solid ground and then pushed onto the working face near the bottom of the cell or into a separate disposal area. Other bulky items, such as demolition and construction debris, tree stumps, and large timbers, shall be pushed onto the working face near the bottom of the cell or into a separate disposal area. The special areas used only for bulky wastes shall be identified on the plan for the completed site.

(c) Procedures for disposing of dead animals have been established by law, IC 1971, 15-2-8-13. Any operation accepting carcasses shall be regraded periodically to keep water from ponding as a result of settlement.

(Indiana Environmental Management Board; SPC 18,Ch V,Sec 14; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 576) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.

320 IAC 5-5-15 Equipment; use; availability of equipment manuals and lists

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2; IC 13-7-10-3

Sec. 15. Equipment. At all times the equipment available shall be capable of spreading and compacting the solid waste and the cover material required for the most severe combination of solid waste delivery and weather conditions expected during any one operating day. Equipment manuals, catalogs, and spare parts lists shall be available at the equipment maintenance facility. *(Indiana Environmental Management Board; SPC 18,Ch V,Sec 15; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 576) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-5-16 Plans maintained on site

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-5-1; IC 13-7-10-2; IC 13-7-10-3

Sec. 16. Records. A set of approved plans shall be maintained on site. An up-to-date plot plan of landfill site shall be maintained on site, with areas marked as they are filled or excavated. *(Indiana Environmental Management Board; SPC 18,Ch V,Sec 16; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 577) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

Rule 6. Solid Waste Management; State Permits for Operation of Refuse Processing Facilities

Cited in: 320 IAC 5-8-2; 320 IAC 5-9-2; 320 IAC 5-10-3.

320 IAC 5-6-1	Operating permit required
320 IAC 5-6-2	Construction plan permit required for issuance of operating permit; joint application
320 IAC 5-6-3	Form for application; time for submission
320 IAC 5-6-4	Permits for other solid waste management processes or technology
320 IAC 5-6-5	Signatures required on application
320 IAC 5-6-6	Maintenance of premises in litter-free condition
320 IAC 5-6-7	Disposal of incinerator residue
320 IAC 5-6-8	Breakdown of refuse processing facility; deposit of refuse

320 IAC 5-6-1 Operating permit required

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-4-1; IC 13-7-10; IC 36-9-30-1; IC 36-9-30-3; IC 36-9-30-4

Sec. 1. No person shall cause or allow the operation of any refuse processing facility without a valid operating permit issued by the Board. *(Indiana Environmental Management Board; SPC 18,Ch VI,Sec 1; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 577) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-6-2 Construction plan permit required for issuance of operating permit; joint application

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2

Sec. 2. No application for a permit to operate a refuse processing facility will be accepted unless it shall have first been issued a construction plan permit, except, provided that an application for an operating permit may be submitted at the same time as an application for a construction plan permit. *(Indiana Environmental Management Board; SPC 18,Ch VI,Sec 2; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 577) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-6-3 Form for application; time for submission

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2

Sec. 3. Complete applications for permits to operate a refuse processing facility must be made on forms provided by the Board at least 60 days prior to the proposed initial date of operation unless a shorter time is approved in advance by the Board. *(Indiana Environmental Management Board; SPC 18,Ch VI,Sec 3; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 577) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-6-4 Permits for other solid waste management processes or technology

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2; IC 13-7-10-3

Sec. 4. The Board may grant operating permits for the operation of solid waste management processes or technology which receive construction plan permits under Chapter IV, Section 9 *[320 IAC 5-4-9]*. Application for such an operating permit will be on forms provided by the Board. *(Indiana Environmental Management Board; SPC 18, Ch. VI, Sec 4; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 577) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-6-5 Signatures required on application

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2

Sec. 5. Applications for permits to operate a refuse processing facility must be signed by the person responsible for maintaining operations within the limits and quality standards specified for that operation in this regulation and in the approval for that plant. *(Indiana*

Environmental Management Board; SPC 18, Ch VI, Sec 5; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 577) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.

320 IAC 5-6-6 Maintenance of premises in litter-free condition

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-3

Sec. 6. Refuse processing facilities shall maintain the premises in a litter free condition. Overnight refuse storage areas must be enclosed. *(Indiana Environmental Management Board; SPC 18, Ch VI, Sec 6; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 577) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-6-7 Disposal of incinerator residue

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-7-5; IC 13-7-10-1; IC 13-7-10-3

Sec. 7. Incinerator residue must be disposed of in a sanitary landfill holding a valid operating permit under this regulation. *(Indiana Environmental Management Board; SPC 18,Ch VI,Sec 7; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 577) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-6-8 Breakdown of refuse processing facility; deposit of refuse

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2; IC 13-7-10-3

Sec. 8. In the event of breakdown or failure of any refuse processing facility, refuse normally accepted at that facility must be deposited at a sanitary landfill holding a valid operating permit under this regulation, until such time as the facility is fully operational again. *(Indiana Environmental Management Board; SPC 18, Ch VI, Sec 8; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 577) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

Rule 7. Solid Waste Management; Duration of Permits

Cited in: 320 IAC 5-10-3.

320 IAC 5-7-1 Construction plan permits
320 IAC 5-7-2 Operating permits

320 IAC 5-7-1 Construction plan permits

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2; IC 13-7-10-3

Sec. 1. Construction plan permits shall be void two years after issuance if operation as specified in the plan is not conducted. *(Indiana Environmental Management Board; SPC 18, Ch VII, Sec 1; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 577) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-7-2 Operating permits

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-3

Sec. 2. Operating permits shall be valid for a period of two years from the effective date of the permit. *(Indiana Environmental Management Board; SPC 18, Ch VII, Sec 2; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 577) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

Rule 8. Solid Waste Management; Renewal of Permits

Cited in: 320 IAC 5-10-3.

320 IAC 5-8-1 Application for renewal; time for submission
320 IAC 5-8-2 Evaluation of renewal application

320 IAC 5-8-1 Application for renewal; time for submission

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1

Sec. 1. Complete applications for renewal of permits must be submitted at least 90 days prior to the expiration date of the expiring permit. *(Indiana Environmental Management Board; SPC 18, Ch VIII, Sec 1; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 577) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-8-2 Evaluation of renewal application

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2; IC 13-7-10-5

Sec. 2. Evaluation of an operating permit renewal application will be based on the quality of operation during the period of the previous permit. If the standards specified in Chapters V or VI *[320 IAC 5-5 or 320 IAC 5-6]* have been met, the permit will be reissued.

(a) Evaluation will be based on reports of all inspections made during the evaluation period, with a minimum of eight inspections. No permit shall be renewed if the facility holding that permit has not been substantially in compliance with Chapter V or Chapter VI *[320 IAC 5-5 or 320 IAC 5-6].*

(b) No permit shall be renewed if, on more than half of the inspections, the operation did not meet requirements of this regulation, or if on more than one occasion one of the following had occurred:

(i) Acceptance of hazardous wastes, except as set out in Chapter V, Section 14 *[320 IAC 5-5-14].*

(ii) Open burning of refuse without efforts to extinguish the fire having been initiated prior to the inspection.

(iii) Leachate flowing into a stream, lake, river, other surface water, or an aquifer without adequate control measures in operation.

(c) Appeal of denial of an operating permit renewal shall be as set out in IC 1971, 13-7-10-5.

(Indiana Environmental Management Board; SPC 18, Ch VIII, Sec 2; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 578) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.

Rule 9. Solid Waste Management; Miscellaneous

Cited in: 320 IAC 5-10-3.

320 IAC 5-9-1 Exclusions from regulation
320 IAC 5-9-2 When application considered complete
320 IAC 5-9-3 Inspection of facilities
320 IAC 5-9-4 Effect of other state or local permits
320 IAC 5-9-5 Inspection of closed operations; recording of description; owner's duties

320 IAC 5-9-1 Exclusions from regulation

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-1-2; IC 36-9-30-2; IC 36-9-30-4

Sec. 1. Exclusions. Disposal sites and operations which receive only rocks, brick, concrete or earth or any combination thereof shall be excluded from the provision of this regulation. Any operation wishing to accept any other inert fill may petition the Board or its designated agent for exclusion from this regulation. This exclusion is void if the disposal site or operation knowingly or unknowingly receives any matter other than the above, or that approved by the Board. *(Indiana Environmental Management Board; SPC 18, Ch IX, Sec 1; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 578) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

Cited in: 320 IAC 5-1-3.

320 IAC 5-9-2 When application considered complete

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-10-1; IC 13-7-10-2

Sec. 2. Complete Applications. An application shall not be considered complete until all of the information required by applicable sections of Chapter III through Chapter VI *[320 IAC 5-3 — 320 IAC 5-6]* herein has been submitted for that application. *(Indiana Environmental Management Board; SPC 18, Ch IX, Sec 2; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 578) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-9-3 Inspection of facilities

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-11-1

Sec. 3. The representative of the local board of health may conduct inspections of solid waste disposal facilities. Reports of such inspection may be submitted to the Board. *(Indiana Environmental Management Board; SPC 18, Ch IX, Sec 3; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 578) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-9-4 Effect of other state or local permits

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-5-1; IC 13-7-10-1

Sec. 4. The existence of any other State or local permit shall not exclude any solid waste management facility from the provision of this regulation *[320 IAC 5]*. *(Indiana Environmental Management Board; SPC 18, Ch IX, Sec 4; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 578) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

320 IAC 5-9-5 Inspection of closed operations; recording of description; owner's duties

Authority: IC 13-7-5-1; IC 13-7-6-1; IC 36-9-30-33
Affected: IC 13-7-5-1; IC 13-7-10-2

Sec. 5. Sanitary landfills and other disposal operations which are closed after promulgation of this regulation *[320 IAC 5]* shall be inspected by the Board or its designated agent. Following final acceptance by the Board or its designated agent, a detailed description, including a plan, shall be recorded by the owner or operator with the county's land recording authority. The description shall include general types and location of wastes, depth of fill, and other information of interest to potential land owners. The owner or operator shall maintain surface contours, continue periodic groundwater monitoring, and exercise any necessary controls over gas or leachate produced. *(Indiana Environmental Management Board; SPC 18, Ch IX, Sec 5; filed Aug 15, 1974, 3:19 pm: Rules and Regs. 1975, p. 578) NOTE: Transferred from the stream pollution control board to the Indiana environmental management board by IC 13-7-2-10.*

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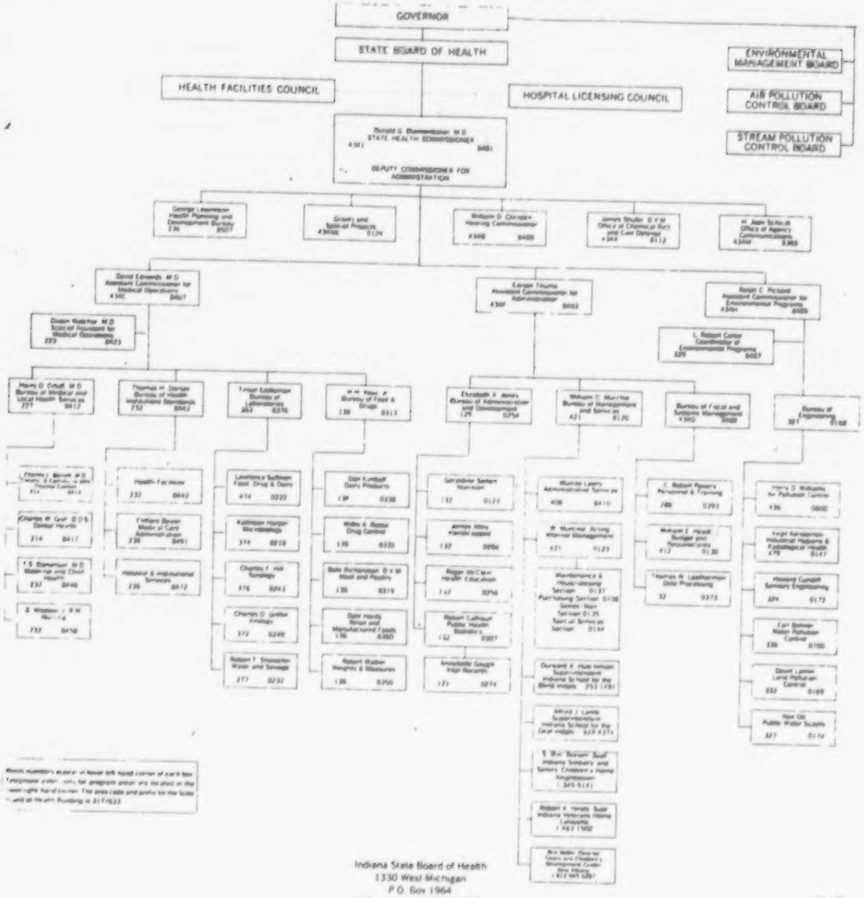
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STATE HEALTH COMMISSIONER
DEPUTY COMMISSIONER FOR ADMINISTRATION
Health Planning and Development Bureau
Grants and Special Projects
Hearing Commissioner
Office of Agency Communications
Assistant Commissioner for Medical Operations
Assistant Commissioner for Administration
Assistant Commissioner for Environmental Programs
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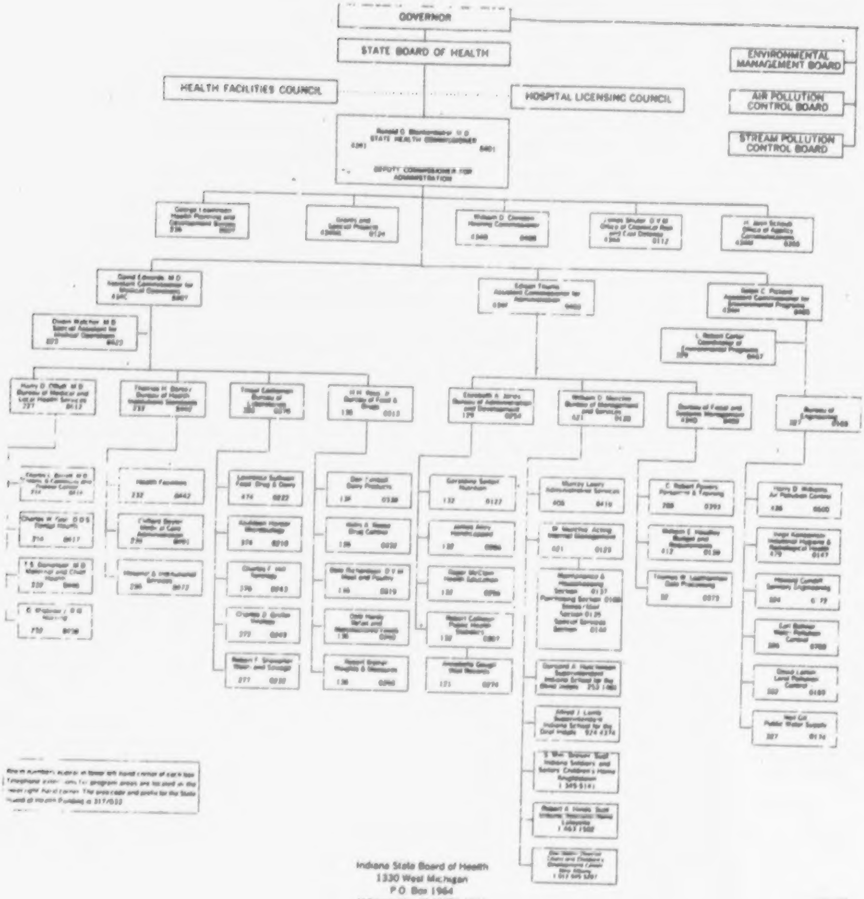
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